SELECTION OF PAPERS

FROM THE

RECORDS

AT

THE EAST INDIA-HOUSE

VOL. II.

SELECTION OF PAPERS

FROM THE

RECORDS AT THE EAST-INDIA HOUSE,

RELATING TO THE

REVENUE, POLICE,

AND

CIVIL AND CRIMINAL JUSTICE,

UNDER THE

COMPANY'S GOVERNMENTS IN INDIA.

IN TWO VOLUMES.

VOL. II.

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Shortly after the renewal of the Company's Charter in 1813, it was deemed expedient to institute an Inquiry into the Administration of Justice and Police under the system which had been established throughout the Company's Territories in India, with a view to the introduction into that system of such modifications and improvements as might appear desirable.

For this and other purposes, the Court of Directors appointed a Special Committee of their own body; and that Committee resolved not only to avail itself of such information as might be collected from the Company's Records, but to call upon certain Gentlemen who had filled Judicial Stations in India, and who were then in England, to state the result of their individual observation and experience upon the subject.

A series of Queries were accordingly circulated among those Gentlemen, which, together with their Replies thereto, will be found in the following pages.

ANSWERS TO COURT'S QUERIES.

J. RAWLINS, ESQ.



To Mr. Dalmeida.

Sir,

I enclose you my answers to the following questions of the Select Committee, for Judicial, Political, and Revenue, which accompanied your letters to me of the 13th and 23d October, and am

Sir,

Your most obedient humble Servant,

(Signed) JOHN RAWLINS,
late of Bengal Civil Establishment

Richmond, Surrey,
6th November, 1813.

Question 1st.

Court's Queries.
J. Rawlins, Esq.

What is your opinion of the fitness, the efficiency, and the general effects of the system of Judicial Administration established in Bengal, and the provinces depending on it?

Question 2d.

Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Question 3d.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts, and decision by punchayet?

Question 4th.

If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

Question 5th.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Question 6th.

If you are of opinion that the system should be continued in whole, or in its chief parts, could the expense of it be diminished, either by reducing the number of courts, or the scale of establishments, (particularly in native servants and their allowances) for those courts?

Question 7th.

Considering the system prospectively, what do you conceive its progressive operation likely to be, upon the state and opinions of the people?

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Question 8th.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Question 9th.

Are you of opinion that the natives may, in respect to integrity and diligence, be entrusted with the administration of justice, and how far; or more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that in any part of the judicial system allotted to their execution they should be superintended by Europeans?

Question 10th.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Question 11th.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient? or do yon think that it would be practicable and expedient, to resort to any of the modes practised by the native Governments for maintaining the peace and order of the country.

Question 12th.

Can you state what the limits and superficial contents were of the district in which you acted?

Question 13th.

Have the courts of Adawlut at any time recommended to parties in a cause to withdraw the suit, and submit to the decision of the punchayet; or has the punchayet at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

ANSWERS *to* QUESTIONS *put by the Special Committee for Judicial, Political, and Revenue.*

Previous to commencing such observations as I have to submit to the Committee, on the points noticed in the questions I am desired to consider, I must beg leave to premise, that as I have now been absent from Bengal somewhat more than five years, my answers may not, probably, be so applicable to the present state of the judicial system in that country, as they might have been at the time, or soon after the time I left it. Twelve years have elapsed since I officiated as a district Judge; but as, during the remaining period of my stay in India, I acted as a Judge of a provincial court, the effects of the system in the districts may still have been within the reach of my observation.

Answer to the first Question.

I am of opinion, that the present system of judicial administration is, upon the whole, with reference to the nature of our controul over the subjects under the British Government in India, neither unfit, nor in a considerable degree inefficient.

Answer to the second Question

I am not aware that any system of ancient Hindoo institution could be adopted with advantage, any further than is authorized by the Regulations existing when I left Bengal.

Answer to the third Question.

I do not recollect, in the parts of the Company's territories with which I was best acquainted, any subsisting remains of ancient Hindoo institutions, of the nature of those alluded to in the question.

Answer to the fourth Question.

The system introduced by the British Government is, in my opinion, certainly to be preferred. By the Regulations existing when I left Bengal, the Judges of the districts and their Registers were the European Officers authorized to decide in causes instituted in the district courts; added to whom there were attached to the courts, both at the principal stations and in the inferior

inferior towns dependent on them, natives of a more respectable description (denominated, I think, Aumeens), to whom references were made by the Judges, and who were, if my recollection does not fail me, authorized, even in the first instance, to hear and decide civil suits of a limited description, sending a monthly report, and I believe their proceedings, to the Judges, to whom also an appeal lay against their decisions. Add to this, by the Regulations every encouragement was held out to the native suitors to have recourse to punchayet or arbitration. I am not aware of any institutions, better adapted than those abovementioned to accelerate the decision of causes.

With respect to rendering the access of the Natives to justice more easy, I am not aware that there exists any necessity for such a precaution; and I must beg leave to offer it as my opinion, that it would be by far a more beneficial measure, to discover some mode of counteracting the spirit of litigation so prevalent among them.

No mode of simplifying the proceedings occurs to me, excepting the Judges and Registers being exempted from recording their proceedings in such causes as they may be allowed finally to decide on; but as I believe all cases are now eventually appealable from the district to the provincial courts, this regulation would be improper, and perhaps it might, in other respects also, be objectionable. I do not apprehend that the expense to which suitors are subjected is burthensome, if a judgment may be formed from the great number of causes annually instituted, and the frivolous and litigious nature of not a few of them.

Very few means of remedying the defects of the existing system occur to me. Defects it no doubt has, partly arising from the circumstances attending a Government consisting of a few individuals over an immense population of various characters and religions. The operations of the system will, of course, be more or less efficient, according to the different characters or qualifications of the individuals entrusted with the duty of carrying it into execution; though, in no country with which I am acquainted, are there a greater number of public servants more worthy of confidence.

I should not, however, offer it as my humble opinion, that the defects in the system consist in too great a degree of power being entrusted to the Company's judicial servants, but rather, on the contrary, that the Regulations, by rendering almost every cause appealable, serve to increase the spirit of litigation, and to diminish the estimation in which it may be desirable that the authority of the district Judges, as the representatives of Government, should be held. By the earlier Regulations of the Bengal Government, no causes for a less consideration than one thousand rupees were appealable from the district Judges, and now, I believe, every cause is liable to be appealed. I would not recommend that the former standard should be resorted to, but I conceive that the decisions of the district Judges might be final to a certain amount.

Answer to the fifth Question.

The chief advantages of the judicial system appear to me to be, that it secures the administration of justice in the hands of European gentlemen, men of character, and, in general, of due qualifications for the performance of the duties entrusted to them; that by the establishment of a regular chain of appellant jurisdictions (first, in the district Judges, to whom all causes decided by the native Aumeens and the Registers are appealable; secondly, in the provincial courts, which are open to appeals, not only from the decisions of the Judges and Registers, but even from those, I believe, of the native Aumeens; thirdly, in the Sudder Dewanny Adawlut, which is open to appeals from the judicial courts) any great degree of injustice is, I apprehend, as much counteracted as circumstances will admit. Under the present judicial system, the jurisdiction of the district courts is not confined to the natives, but extends, in certain cases, to the European Collectors of the revenue, and the European public officers employed in the district, over whom, of course, as well as over the district Judges themselves, the provincial courts and the Sudder Dewanny Adawlut exercise a superior jurisdiction. So it will appear, that by the Regulations a remedy is afforded against every species of improper conduct: and I must offer it as my opinion, that as far as my experience went, these judicious provisions were productive of many good effects.

To

To these provisions for securing the due administration of the judicial functions must be added the no less important advantage arising from the Regulations, according to which justice is administered, being formed with due reference to the character and customs of the natives, and enjoining an adherence, in most cases, to their religious and civil laws, for the propounding of which there are both Hindoo and Mahomedan law-officers attached to each civil court.

The above observations have a reference principally to the civil part of the judicial system. With respect to the system, as it relates to the administration of criminal justice, the advantages attending it are, I conceive, by no means inferior. The courts of circuit, superintended by a Company's servant aided by the advice and opinion of a Mahomedan law officer, with occasional references, in particular cases, to the expounders of the Hindoo law, and controuled by the superior authority of the court of Nizamut Adawlut, are as well adapted to the administration of justice to persons of the description amenable to their authority, as can, I conceive, be devised. While it is thought necessary to continue the Mahomedan law as the standard of decision (and I know not, independent of the policy of such continuance, which is too obvious, I apprehend, to require being supported by argument, if under the modifications it occasionally experiences it can be deemed in any considerable degree objectionable), the above mode of administering it is, I think, much preferable to that which prevailed previous to the establishment of the courts of circuit.

In addition to the above advantages I would notice one, which, though it is not strictly of a judicial nature, is perhaps of greater importance: I mean the control over the native population, which is the consequence of the appointment of a Judge and Magistrate in each district.

The principal disadvantage, which is not so much in the system itself as in its application, appears to me to be, that some of the district jurisdictions are too extensive. This observation I should apply both to the jurisdiction of the Judges, and to those of the Magistrates, but more emphatically to the latter

Answer to the sixth Question.

I am by no means of opinion, that the number of courts could, with any propriety or advantage, be diminished, or that the scale of the establishment or allowances to the officers, either European or native, could be curtailed. It must be too obvious to the Committee to need any attempt to demonstrate it, that of all public officers, those entrusted with the administration of justice should be best secured from temptation by liberal stipends.

Answer to the seventh Question.

As to the progressive effect of the judicial system upon the state and opinions of the people I have to observe, that while it continues well administered it will probably give greater security to property, and, if the police be efficient, must add to personal safety. As our system is more liberal, both in its principles and administration, than that to which the people were accustomed under the native government, it has had, I apprehend, and will continue to have, the effect of exciting in them sentiments somewhat more independent than those which they before possessed.

Answer to the eighth Question.

In answer to this question, I have not the least hesitation in giving it as my decided opinion, that not only the natives would confide more in the uprightness of European Judges than in Judges appointed from their own people, but that, in general, they actually do give the preference to the administration of justice by Europeans

Answer to the ninth Question.

I am not of opinion, that it would be safe or desirable to entrust exclusively any branch of the administration of justice to natives. I conceive that the existing regulations, as above intimated from my recollection, have carried this principle at least as far as it ought to be carried, and that, in all cases of the natives exercising any part of the judicial system, they should be superintended by Europeans.

Answer to the tenth Question.

I have no knowledge that I can depend upon, respecting the point stated in this question.

Answer to the eleventh Question.

I cannot offer it as my opinion, that the system of police, as established when I was in Bengal, was so efficient as was desirable; though no doubt it might be so, in a greater or less degree, according to the activity of the individual superintendent. There existed of old, in the Company's territories in Bengal, a practice of making the Zemindars responsible for property stolen within their estates, in the event of their not apprehending the robbers. This practice existed in particular in the Shahabad district till the completion of the decennial, afterwards the permanent settlement, or the establishment of the present police system, by which the controul of the village watchman was taken from the landholders. I have always considered the re-establishment of that practice as the best calculated to give efficiency to the police; and experience of the effect of it, when it did exist, justified the inference in the Shahabad district.

To effect this, the village watchmen might be put more under the controul of the Zemindars than they are; but neither they, nor the Zemindars, should be released from the controul of the Magistrates and police Darogahs, within whose jurisdictions they resided, and such regulations should be framed as might be best calculated to obviate oppression. When acting as Magistrate of Shahabad, I had an opportunity of making some propositions on this subject, but without effect. In the event of its being deemed improper to subject each individual to this responsibility, it might be less open to objection to render the Zemindars of a pergunnah collectively responsible. The grounds on which the expediency of some such arrangement is, in my opinion, established, are the great influence of the Zemindars within the limits of their own estates, the knowledge they have of the habits and character of persons living on them, and the advantages thus possessed by them for the apprehension of robbers.

Answer to the twelfth Question

I can only answer this question by reference to Rennel's map of Behar, in which the limits of the Shahabad district, when I superintended it, are accurately laid down. Some additions were made to it when I left it It extended, when under my superintendence, from the river Soanee to the Carramnassa, and from the banks of the Ganges to the mountains of Kotas.

Answer to the supplementary Question.

I have informed the Committee, that arbitration, commonly called punchayet, is recognized by the judicial Regulations. Due encouragement is given to suitors to submit their causes to this species of decision, which as it is guarded by more forms than arbitrations independent of the court, is in general, I believe, to be preferred. That courts of justice have recommended parties in a cause to withdraw their suit and submit it to private arbitration, I have no doubt, and decisions so made are allowed due weight by the courts

(Signed) JOHN RAWLINS,
late Judge of the Behar Provincial Court.

Richmond, 6th November 1813.

JOHN MELVILL, ESQ.

GENTLEMEN,

The following are answers to the queries transmitted to me by your Secretary, on the 23d ultimo:

Answers to Court's Queries.

John Melville, Esq.

Queries.

1. What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established in Bengal, and the provinces depending on it?

Answers.

1. There are peculiarities in the character of the inhabitants of Bengal, and other relative circumstances, which in my opinion renders a great part of the judicial system unsuitable; and it is palpably inefficient, as it imposes the performance of an extent of duties by European officers, for the execution of which a proportionable number of qualified agents cannot possibly be procured: and, indeed, the state of the business in the several courts seems of itself to prove it, particularly when it is recollected, the courts are loaded with arrears, notwithstanding the repulsive measure of a distressing weight of expense has been purposely made to attend the institution and prosecution of suits.

The Regulations established by the Marquis Cornwallis may be said to contain but a small part of the code of laws required for the judicial administration in Bengal. Indeed, properly speaking, they are to be considered as a kind of ground-work upon which to proceed, leaving to unremitting care and vigilant attention to discover, in the course of their administration, their fitness or otherwise, during their progressive action, in all their relations and consequences, in order that such modifications and additions might be instituted as might be found necessary.

The great pressure of the routine of current business on the several authorities in India, with other causes, appears to have hitherto prevented the following up of necessary improvements; and the great object, a code of laws adapted to existing circumstances, and to the character of the inhabitants, is still wanting. In any attempt, however, to attain this object, I am of opinion the same principle must be pursued, and such alterations and additional institutions made, as a series of previous judicious observations may render expedient.

Among the general effects of the present system, it is unnecessary to enumerate such as must result from oscillatory decisions or from general inefficiency, as the accumulating disorder, consequent on judicial concerns not being duly administered, must be apparent. I shall, therefore, merely observe, that from the frequency of administering oaths, the crime of perjury is increasing beyond all bounds; that the spirit of litigation is inexpressibly great, and the beneficial influence of kindred and caste, particularly in its tendency to encourage the amicable adjustment of disputes and differences, is nearly destroyed. It is to be apprehended, too, that from the authority given to farmers and others to distrain property, and from inability to afford the heavy expense and great loss of time required to follow up suits through the different stages in a gradation of courts, the rights of the lower orders, particularly the cultivators of the soil, are suffering most serious injury.

The arbitrary conduct, however, of the higher ranks in the commission of acts of violence, is happily checked, and the people certainly look to the judicial powers for protection; and there is a persuasion generally entertained, that landed property is perfectly secure, a fact strongly evinced in the eagerness shewn by crowds of people attending as purchasers, when small parcels of land are to be disposed of at public sales.

The cultivation of the country has been greatly increased. The fact itself will never be disputed; but other causes besides the judicial system may be assigned, and with truth it may be alleged, that the general policy of the Government opens a free and extended market for all kinds of productions. And, besides, at the period of the first introduction of the system, Bengal had not its natural extent of population. Years of scarcity had retarded its recovering the heavy loss in inhabitants which it sustained by a severe famine: on a succession, therefore, of favourable seasons, an increase of inhabitants, and consequently of cultivation, would necessarily follow.

2. What do you take to be the chief advantages or disadvantages of the British judicial system?

2. The great advantage of the system appears to me, that it makes known to the people, that instead of the capricious mandates of arbitrary power, such principles are established for the security of their persons and property,

property, as clearly manifests the intention of the Government that justice should be equally administered.

The greatest disadvantages are its inefficiency and tendency to produce unnecessary litigation.

From an improvident change in the system of police, and by having too much of minutia imposed upon them, the Judges and Magistrates are incapacitated for the due performance of the great and more material objects of their duty.

From the circumstance of the natural authorities not being empowered to effect, by the decision of Punchayet, an adapted adjustment of trifling differences and complaints, from the revival of institutions not adapted to the present state of society, and from the ill-suited system of a succession of stages of appeal, rendered still more so by contradictory decisions, the natural contentious propensity in the inhabitants is encouraged and increased into a spirit of boundless litigiousness.

Although the preamble to the judicial Regulations, most wisely in my opinion, qualifies the enforcement of the rules of the Koran and Shaster to such rules only as had invariably prevailed (a qualification that will give great room for correction of unsuitable parts), yet it appears to me that in the administration of the present system, the full and proper use of this most material modification is not made, and from this circumstance much unnecessary litigation is created; for though twelve hundred years ago certain rules might not have occasioned much inconvenience in the deserts of Arabia, yet the reviving of them, as part of a judicial system, in the provinces of Bengal, in a different state of society, may be productive of mischievous effects. The rules of the Koran respecting wills, for example, impose restrictions so many and so great, that they operate totally to prevent the making of wills; in consequence of which and other causes, the death of a Mahomedan possessed of any property seldom happens, without producing one or more suits, and in most instances such an event will almost necessarily produce this effect. I could state other cases; but the bare mention of this circumstance is sufficient to evince the necessity of examining, how far the existing laws force the people into this feverish state of distracted litigation.

Whether we contemplate the character of the inhabitants, the great load of expense it entails, the waste of time it creates, the state of the judicial appointments, or the effect which conflicting decisions on the same case have on the sentiments of the natives, (for they speak disrespectfully of thus apparently confounding right and wrong), the fabric of a gradation of courts of appeal is, in my opinion, an improper part of the present system; particularly as the end it had in view may, perhaps, be attained by other modes, not subject to the same pernicious consequences.

3. Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by punchayet?

Have the courts of Adawlut at any time recommended the parties in a cause to withdraw the suit and submit it to the decision of the punchayet; or has the punchayet, at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

3. It is a long time since I first adopted the opinion, which I still entertain, that the ancient and approved custom of decision by punchayet might with great advantage be revived, and substituted for a part of the system both in civil and criminal causes; and also that the services of those persons who would naturally form the assemblies for deciding by punchayet might be so made use of, as greatly to diminish the labour of the regular courts, by being employed, in many cases, to ascertain various facts material to final decision. In the laws and regulations, however, of the judicial administration, decision by punchayet is not acknowledged or even noticed: the courts of Adawlut could not therefore legally recommend to parties in a cause to withdraw the suit, and submit

mit it to decision by punchayet. On occasion, however, of certain accusations, partaking of the nature of defamation or scandal, or of circumstances militating against the rules of the caste, class, or society, to which the accused or stigmatized may belong, such assemblies are still held, in order to make inquiry into the grounds of the accusation, thereby to ascertain whether the accused ought or ought not to be continued a member of their society. The result of such decisions, although I believe it now seldom happens they are given in writing, is known to, and acted upon, by the members of the caste or class. I have known other cases, where it appeared the parties had, by the persuasion of neighbours or kindred, verbally applied for an adjustment by punchayet. The party, however, against whom the decision had gone, knowing its want of legality, had on the first moment of discontent or ill humour revived the contest, and brought the original case before an established court. These decisions by punchayet being thus unsanctioned by public authority, are so little in general use that they may be considered as nearly exploded.

4. Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

4. I am of opinion, the natives would confide more in the uprightness of European Judges than in Judges appointed from their own people. I think they have a high opinion of the integrity of the European character, and that when instances of partial dereliction of duty occur, the sentiment does not alter, and they generally attribute them to the pernicious advice or influence of some intriguing native But what, in my mind, seems most to militate against this prevailing favourable opinion, are the contradictory decisions of causes tried in appeal.

5. Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administration of justice, and how far? or more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

5. That there are natives of integrity is not to be doubted; but I think the combination of integrity and great application to business in the same person, is not a frequent occurrence. Indeed, I have an impression that integrity and habits of indolence are a more general combination. The branch of the administration of justice which, in my opinion, ought to be trusted to the natives, will be noticed in a subsequent paragraph.

6. Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

6. The different zillahs or specified jurisdictions of the several judicial courts are, from particular circumstances, unequal in population. I have not any estimated account, and I speak conjecturally, when I mention the average scale to be nearly the number of a million. I have an impression that, excluding the five cities, the amount of the land revenue of each zillah will pretty correctly determine its population, by reckoning one inhabitant for each rupee of revenue.

7. Can you state what the limits and superficial contents were of the district in which you acted.

7. I have not any memorandum on the subject, or even a map of the zillah Jessore, in which I acted: I cannot, therefore, with the most distant pretension to accuracy, state the limits; but I should think it exceeds a space of eighty square miles, which I suppose to be nearly the average of the zillahs in general.

8. What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient, or do you think it would be practicable and expedient to resort to any of the modes practised by the native Governments, for maintaining the peace and order of the country?

8. The police in Bengal is in a very bad state, and the present system is, in my opinion, deficient and wrong. The crimes of theft and robbery are still a profession, from which the unhappy followers seek a support; and it will so continue, until the errors or acts which gave rise to the prevalence of those crimes have been corrected. I was with the British army when it conquered

conquered the territory of Cuttack; and though a country bordering on our own provinces, I found that, comparatively speaking, those crimes did not exist; and I ascertained the cause to be a police establishment of public officers, called Kandytes and Pikes, a kind of watchmen or guards, who had grants of lands for their maintenance, and became responsible for thefts and robberies: and as the Bengal Government, on my representation, readily confirmed those grants and establishments, the police in that district continues in excellent order. I have reason to think such establishments formerly prevailed in Bengal, but that the lands were resumed, and the incumbents and their families, in order to obtain support, forced to relinquish the profession of watchmen for that of thieves and robbers, and which their descendants at present follow. The remedy is easily found. Let the system now established in Cuttack be completely introduced into Bengal, and, in my opinion, the desired object of an efficient police will soon be attained.

9. If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any ameliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

9. It may be collected, from the preceding remarks, that some immediate reform is by me conceived to be absolutely necessary, and that, in my opinion, the judicial system will be rendered more efficient and better adapted to existing circumstances, if, after a careful inspection of the Regulations, a fit modification is made in those parts that are unsuitable to the present state of society, and which create unnecessary and ruinous litigation. That I particularly recommend recourse being had to the ancient usage of decision by punchayet, and that all complaints, civil or criminal, of a trivial nature, be on every adapted occasion referred to such decision for final adjustment; and that I also recommend, that a police establishment of Kandytes and Pikes, such as is established in Cuttack, be as soon as may be practicable introduced generally into Bengal. That I am fixed in opinion, the mode of procedure, by appeal from the decision of one court to that of another, is a most unsuitable part of the existing system, and productive of most pernicious effects; and that it is not attended with any advantage that would not be better attained by a different mode. For example: in all cases that come before any of the courts as original suits, in which the amount at issue exceeds the amount for which such court can give a final decision, such court should not, in such case, pass a decree, but after fully hearing and trying the cause, should detail its opinion in a document in the English language, and then transmit the whole record of the trial to the particular court that possesses the power of giving a decision, and which court should, after full consideration, pass the final decree. The manner of trial here recommended for civil suits, is the mode now pursued in criminal trials, for such crimes as incur the penalty of death; and it would be a measure productive of a further very great saving of expence and labour, if a corresponding mode was adopted (viz. the record of the trial completed by the Magistrate) respecting criminal trials, in cases where the Judges of Circuit can pass sentence.

10. If you are opinion, that this system should be continued in whole or in its chief parts, could the expence of it be diminished, either by reducing the number of courts or the scale of establishment (particularly in native servants and their allowances) for these courts?

10. Independent of such saving, in point of expence, as might result from adopting the alterations I have suggested, I am not aware of any other reduction that can expediently be made.

11. Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

11. When, by the adoption of the most congenial mode of adjusting their trivial disputes and differences, and other requisite measures, the propensity to litigation, to which, from an irritable nature and great weakness

of mind, the natives are subject, shall be moderated and allayed, and when an adapted police shall have been introduced, the increasing impression of confidence in the security of their persons and property will have the effect of giving to the people confirmed habits of industry and sentiments of independence.

Having now completed the answers to the queries you have done me the honor of submitting to my consideration, I beg to assure the Honourable Committee, they are candid and sincere opinions founded on my experience and reflection.

I have the honor to be,
&c. &c. &c.
(Signed) J. MELVILL.

Crawley,
18th November 1813.

J. NEAVE, ESQ.

Question 1st.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established in Bengal and the provinces depending on it?

Answer.

The present Judicial Regulations apparently unite the Hindoo, Mahomedan, and British jurisprudence: they profess to stand on their own intrinsic merits, to correct the evils of former systems, to afford an easy and speedy redress to the lowest individuals, to protect them against the officers of Government, whether financial, commercial, or judicial, and even against the acts of Government itself. After nearly twenty-three years of experience, doubts have arisen whether these desirable objects have been obtained.

The sudden transition of the British power in Hindostan, from suppliant merchants at the throne of the Mogul Emperors, to conquest and almost universal sway, was, I presume, a matter of equal astonishment to ourselves and the natives. The natural consequence of our dominion was the gradual extinction of the offices of the old Government, and subsequent decay of the respectable native families. Rapidly have they fallen. We bestow nothing; for I cannot estimate the petty offices held under us of sufficient importance to satisfy the present, or stimulate the hopes of the rising generation. Here then was a grand link of the chain broken, which formed a bond of union between Government and its subjects. They reduced the decennial, or rather perpetual settlement: gave the death-blow to all hopes of consequence that might still be left with the landed proprietors. This settlement entitled the Zemindars in fee simple to the lands they held, while the stipulated revenue was paid. By the usage of Bengal, Behar, and Orissa, a Zemindary of large extent, on the demise of the incumbent, devolved entire to the heirs, the relations receiving only a maintenance from the estate. But this custom, so congenial to original institutes, with a view to the general improvement of the country, was abrogated by Regulation XI. of 1793, which fritters away the largest property to the smallest denomination. We have, by this regulation, opposed the prejudices of the natives, lost a strong hold of combining their influence with ours, and perchance gained some proselytes to our system, the humble sharers of a divided estate. To separate still further the connections of Government with its subjects, we have at various times attached the free lands of different descriptions, and resumed those appropriated to the Canongoes, Pikes, Pausbauns, &c. thereby depriving ourselves of the services of those useful assistants in revenue and police operations. The bankers, merchants, and shopkeepers are the classes of people least affected by the Regulations. Having so far reduced a part of our subjects from comparative consequence to insignificance, we offer them, in return, justice. An European will understand the value of the word; but the natives thought something more was to be gained by the proffered boon than the simple operation of redress. They ransacked their family traditions for claims on their neighbours, and the courts were

were instantly inundated with suits. This occurred when there was no institution fee. The Government, however, for a time repressed litigation, by imposing fees; otherwise our new system would have been strangled in its birth; and for a time only, for some years afterwards, our courts were so choked with suits, that assistant Judges were called in to reduce the number. This evil I understand still to exist. I fear, therefore, that "the judicial administration has failed in fitness and efficiency, and that the general effect "of the system" has been to produce a litigious race; and that our dominion offering to the natives no fair object of ambition, they will gradually decline in character, and our population be marked for ignorance and its concomitant profligacy.

Question 2d.

Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Answer.

I do not. I think we must now rise or fall by our own institutions.

Question 3d.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by punchayet?

Answer.

If this question be confined to Bengal proper, I have to mention that I never held any judicial situation in Bengal; neither have I the least recollection of any "village courts" in either the districts of Tirhoot and Benares, over which I once presided. When second judge of the Patna court of circuit, the late Mr. Mathew Leslie and myself were ordered by the Government to investigate a custom which existed in Ramghur, relative to the trial of witches. In the wildest part of the hills we discovered "village courts." On the report of sorcery being practised, the principal people in the neighbourhood formed a deliberative assembly, tried, condemned to death, and enforced its sentence on those convicted of witchcraft; generally old women. The detail is curious: and so thought Lord Teignmouth, as he has recorded the result of our investigation in the Asiatic Researches. It is hardly necessary to say, that Government strictly prohibited in future all such village courts.

Question 4th.

If this system, introduced by the British Government, is in your opinion to be preferred, do you conceive it to be susceptible of any ameliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

Answer.

The present system is too unwieldy, and too much encumbered with forms. The jealousy of Government, in its delegated rule, trenches so decidedly on the executive power, that in the attempt to curb abuses, it involves itself in endless reference. I deprecate, however, the rage of law-giving; and not having before me a judicial code, or a map of the provinces, I cannot digest any plan worthy the attention of the Honourable Committee. I can merely scatter my thoughts at random; and if any be adopted, I shall, indeed, be flattered. Let the first object be to revise the Regulations, curtail all exuberances, and compress the remaining matter in the smallest comprehensible compass. We have to recollect, that the Company's servants are not a body of lawyers; and the selection for judicial situations will occasionally fall on those, who with the best intentions, are not endowed with superior intellects. The simpler then the detail, the better to meet all contingencies. In revising the Regulations, I would avoid the multiplication of oaths. The native pleaders should not be called on biennially to swear they had been faithful to their trust: a bad man will not hesitate to swear, and a good one must be hurt by the suspicion an oath implies. To simplify the proceedings, and save expence to the suitors, let the plaint and answer only be filed: the reply and rejoinder are useless as

containing

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containing no new matter. Instead of a power of attorney, the seal of the pleader to his constituents' plaint or answer may be considered as a full verification of his authority to act. The judges may be enjoined to enter on the proceedings such documents as substantiate the cause at issue. The natives are fond of loading the file with a mass of irrelevant papers.

So far as my recollection serves, I think the severity of the Mahomedan criminal code has been happily tempered by British lenity: But it strikes me, that men of character and respectability are liable to be brought into court on trivial charges. If this be still the case, the Magistrates may have a discretionary power to protect them from such attacks. The value we affix to an oath renders an alibi easy of proof. The natives are quick in taking advantage of our strict sense of morality. In my own practice I have been under the necessity of acquitting a prisoner, though mentally convinced of his guilt. No regulation can be offered on this head: much will ever depend on the discrimination of the Judge of Circuit. Perchance the punishments now inflicted for the crime of perjury may tend to stop the progress of the evil.

Much more, doubtless, can be offered to remedy defects in the present system: but I must beg leave to represent, that just now my chief resources have been found in my own memory and general impressions. It is ten years since I left Bengal, and in this time my mind has been more given to European than Indian ideas. I have wished to become a native in my native land. It may then appear somewhat assuming to oppose my judgment to the talents and ability which first dictated, after mature deliberation, the system under discussion: but that system, however fair in theory, had to submit to the test of experience. In my opinion it has partially failed; and with all becoming deference I would suggest, that the offices, now distinct, of Judge and Magistrate, and Collector of Revenue, be again invested in one person. I fancy I behold in this union a stronger tendency than now exists to energy, simplicity, and economy, and certainly more consonant to the practice of the native Governments. Add to the efficiency of this officer by an increase of power in judicial and revenue affairs, rescind Regulation XI of 1793, restore the Ranongoes, and hand over to them the quinquennial registers of landed property, and if it be still practicable, re-establish the Pikes, Pausbauns, &c. By these measures, and as before noticed, the simplification of the Regulations, the European character will rise in estimation, the natives will look up to one head in a district, who invested with a double authority, the spirit of litigation will subside, while no serious evils can be apprehended, there still existing a Board of revenue, Courts of appeal and circuit, and a Sudder Dewanny and Nizamut Adawlut.

Question 5th.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer.

In the preceding expositions this question has been discussed

Question 6th.

If you are of opinion that this system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment (particularly in native servants and their allowances) for those courts?

Answer.

The chief purport of this question has already been noticed. I am ignorant as to the scale of the present establishment; and were I informed, it would be a matter of infinite doubt whether I could propose any reduction. Reverting to climate and other considerations, I know of no labourers more worthy of their hire, than those in the vineyards of Hindoostan. As to the native servants, it would redound more to our credit to increase, instead of diminish their allowances. When I was in office, an annual letter was received, to learn wherein they could be reduced. I invariably answered, that the thing was impossible, consistent with propriety and humanity. To these sentiments I adhere.

Question 7th.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Answer.

In the preceding expositions this question has been discussed.

Question

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Question 8th.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Answer.

I think they would.

Question 9th.

Are you of opinion that the natives may, in respect to integrity and diligence, be trusted with the administration of justice, and how far, or more particularly, can any branch of the administration of justice be trusted exclusively to the natives; or, will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

Answer.

I am of opinion, that the natives, in respect to integrity and diligence, may be trusted with the administration of justice. Ally Ibraham Khan is an instance in point: he was chief Judge of the city of Benares, and deservedly obtained a high reputation. There were also two other Judges, Molovy Omroola, and Mahommed Nazir Khan, of whom I have every reason to speak well during the time they came under my notice, as Assistant to the Resident at Benares. Still, I would not commit exclusively to the natives any branch of the administration of justice on *a large scale*. I think we ought to keep the judicial branch to ourselves as a sacred deposit, to raise ourselves in the estimation of the natives. Let our judicial character counteract the evil impressions created by our financial system. On a small scale, I conceive it to be very immaterial whether the natives be, or not, superintended by Europeans.

Question 10th.

Are you acquainted with the general average scale of population, within the sphere of one zillah or judicial court?

Answer.

I am not.

Question 11th.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient; or do you think it would be practicable and expedient to resort to any of the modes practised by the native governments, for maintaining the peace and order of the country?

Answer.

I have little to offer on this important subject. The chief part of my official life in India was spent at Benares, where, from head Assistant to the Resident I became senior Judge and Political Agent to the Governor-General. In my time, the Tehsildars or native collectors, landholders, and farmers, were answerable for the police and robberies. This system was so efficient, that I was not called on by the recurrence of flagrant breaches of the peace to turn my mind to police arrangements. It is, however, with deep regret, I learn the Benares police has been subverted to the Bengal system; and while I lament the alteration, I am sorry to say I am not calculated, either by habit or reflection, to suggest any thing on this subject worthy of consideration.

Question 12th and last.

Can you state what the limits and superficial contents were of the district in which you acted?

Answer.

The limits of the Benares division have been entirely altered since I was in office. A reference to Mr. Grant's analysis will, I believe, afford the required information.

Having now completed my answers, it is necessary to mention, that I in no case allude either to the "Ceded or Conquered Districts:" the first were scarcely arranged when I left India, and the latter had not been obtained. All I have further to notice is, that my opinions and suggestions will have been partially anticipated, in the discussions which have occurred on judicial matters; but I cannot forego them, because they carry not the full share of novelty: they are still mine by adoption and reflection.

(Signed) J. NEAVE.

Binfield, 18th November 1813.

Answers to Court's Queries.

A. Hamilton, Esq.

A. HAMILTON, ESQ.

MY DEAR SIR, Hayleybury, 19th November, 1813.

WHEN I had the pleasure of seeing you in Town, you expressed a wish that I would communicate to you my sentiments on the following question, viz. "Whether the decision of suits in India might not be "accelerated, and at the same time a considerable saving, in point of expense, "be obtained, by reverting to the judicial institutions of the Hindoos?" I have to regret, that since my return here, an uninterrupted succession of necessary occupations has so long prevented me from bestowing my attention on it. In writing to you, Sir, it will only be requisite succinctly to advert to the many important considerations involved in this discussion: but something will be gained in perspicuity by reviewing them in their natural order.

First, The inconveniences resulting from any material change of system The evils resulting from the endless fluctuations of our policy in India, are universally acknowledged and deplored. It banishes all confidence in the stability of our institutions from the minds of the natives, and, when compared with the unvarying tenor of their own, places the English character in an unfavourable light. On this head it were superfluous to enlarge. The innovations under consideration are recommended by two advantages, economy and expeditious decision: the first a prudential motive, the last an imperative duty. Delay may, at last, become equivalent to a denial of justice; and long before it shall have attained that point, alteration will lose the character of innovation, and assume that of a necessary remedy against still greater evils. When the necessity of adopting new measures is proved, the first inquiry to be agitated is, whether the evils complained of originate in the principles of the existing system, or are exclusively imputable to the defects of administrative regulations.

The fundamental principle of Lord Cornwallis's plan was the separation of the judicial from all other functions, the establishment of high salaries to those who were entrusted with their discharge, and the severest penalties against all who were found guilty of any breach of duty. These are indisputably the surest means of attaining the first object of all good governments, the pure and incorrupt distribution of impartial justice. To whatever agents the judicial functions are committed, the necessity of adhering to the system of liberal policy, then introduced, can never become a question. Two circumstances have contributed, in some degree, to defeat the humane intentions of that nobleman in Bengal 1st. The extent allotted to the jurisdiction of each zillah court greatly exceeded the powers of the court itself to manage, even when first instituted; but it might have been foreseen, that every year would detract fromits competency by an accumulation of undecided suits. The progression may be stated thus:—The number of suits will increase with the increased probability of obtaining justice: when the delay arising from their accumulation will also operate to their increase, by holding out temporary possession and a long impunity, as incentives to the commission of injustice. This error was perfectly unconnected with the principles of Lord Cornwallis's judicial system, and is solely imputable to that attachment to economy, of which he never lost sight. I may also add, that his Lordship was himself aware, that the jurisdictions were too extensive, and that he looked forward to a period of greater financial prosperity, when the number of courts might be augmented, and the size of the zillahs reduced. Secondly, another error, which I humbly presume to think that his Lordship fell into, was in exonerating the Zemindars from their functions as police officers, and depriving them of the establishments of Peons, which enabled them to discharge those functions. Before the acquisition of the Dewanny, the Zemindars were made responsible for the peace of their respective districts. On granting the official sunnud to each successive incumbent, a Muchulkah was required to the following purport:—"I hereby engage myself, by this written obligation, to discharge punctually "the duties of the station, neither delaying nor omitting the most trivial pre-"cautions; to conduct myself in a gracious manner towards the peasantry "and

" and population; to be active in the expulsion of the turbulent; to eradicate " every trace of robbers and highwaymen from the lands dependent on the " zemindarry." Again :—" To be so vigilant in the protection of the roads, " that travellers may go and come with confidence and security, and thefts and " robberies be entirely prevented : but if (which God avert!) the property of " any person should be plundered, after producing the culprit with the stolen " goods, the last shall be restored to its owner, and the first delivered over to " punishment, on failure of which I remain responsible for the damage sus- " tained." If, as I certainly think, the evils now complained of originate exclusively in the causes I have stated, I am authorized to conclude that they do not flow from any radical defect in his Lordship's judicial system, but are solely imputable to causes within the reach of remedy, without deviating from its fundamental principles.

III. An increase of the number of zillah courts will, I presume, be universally admitted, as the natural, obvious, and effectual remedy for the evils at present existing. It does not operate simply from accelerating dispatch of business; but the existence of such establishments in the neighbourhood, furnishes a strong check to the commission of injustice or the perpetration of violence. I have it in my power to supply the most undoubted proof of the efficacy of this measure, by stating the effect it has already produced, in a country which, a few years ago, was a receptacle of robbers, and in which a military force was generally necessary to insure the collection of the revenues. It is taken from a letter written in February last, from the Jungle Mehals. " This district, " called the Jungle Mehals, was only formed in 1805, by a separation of the " jungle estates of Beerbhoom, Burdwan, and Midnapore. These estates, pre- " viously to their being separated, were in a terrible state of anarchy, and it " was with the greatest difficulty that Government was able to collect their " revenues. They are now, however, in the highest state of order with regard " to the police; and as the inhabitants now place confidence in our Govern- " ment, and enjoy their property in security, civilization rapidly extends its " progress. Having now a sure prospect of reaping the fruits of their own " labour and industry, they are bringing vast tracts of land into cultivation, " which were before thickly covered with a forest jungle." Mr. Anderson, whose letter I have cited, is Register and Assistant-Collector in the district whose situation he describes. It only states the local advantages which might have been calculated upon *à priori* to result from the increase of the judicial establishment, and curtailing the extent of their jurisdiction. I shall not enlarge on this branch of my subject, conceiving that the expense alone deters Government from the adoption of the measure I recommend.

IV. The expense resulting from increased judicial establishments. Whilst the British nation shall retain their territorial possessions in India, security of person and property, the benefits of a wise and beneficent government, are rights which the natives are entitled to claim, in return for their allegiance and for the revenues we collect. I hold it, therefore, unnecessary to calculate, whether the amount of revenues, so collected, be in a greater or less ratio to the judicial expenses than prevail in other countries: nor am I very desirous of seeing experiments instituted to try, with how small a portion of justice a nation may be governed. But this is certainly far from the intention of those who agitate these questions. It only remains, then, to examine whether, by substituting native agency to a certain extent, expedition and economy might not be united.

V. Of the judicial institutions of the Hindoos no traces are extant in the subah of Bengal. This I can affirm, from an intimate personal knowledge of the districts of Dacca and Jessore, and my conviction is scarcely less strong with regard to the other districts of the Subah. The Hindoo laws are contained in numerous compositions, of which the most celebrated exist at this day; but for centuries they have been administered, in cases of property, through the medium of institutions unknown to the Hindoo legislators. In the peninsula of India, when the Mahomedan rule was neither so long nor so firmly fixed as in Upper Hindostan, many primitive institutions, and indeed the entire structure of society, appear to have survived the shock. The intelligent historian of Mysore represents each village as a corporation, possessed of a joint stock, and governed by its own municipal officers. He alludes, though without specify-

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ing its functions, to the punchayet, an institution which he considers as, in some respects, analogous to an English jury. On the other hand, the catholic missionary, Fira Padrino, whose long residence in Travancore and whose knowledge of the Tamul language renders his testimony important, entertains different views, and it will be recollected, that Travancore never was subjected to Mahomedan conquest. He states, that " Copies of the laws are preserved " in all the temples and academies ; but they are under the keeping of the " Brahmins, and besides them no one is suffered to read them." He afterwards describes an institution which very much resembles the punchayet, as it actually exists in Bengal at this day ; with this difference, that he makes it to consist of Brahmins only. " Each member of it has a voice : it is called Yoga. " Their decision is considered infallible, and those who oppose it are expelled " from the society. These yogas take cognizance of all disputes which arise " in regard to betrothing, marriage settlements to daughters, and other things " of the like kind, as well as of all offences committed against religion or caste." He then proceeds to state, that all civil and criminal affairs are determined only by the king and his servants. We find, then, that on the authority of a competent witness, that the jurisdiction of the yogas is confined to matters which relate to caste. The word Yoga signifies an union ; panchayet means an assembly or congregation. In Bengal, periodical meetings of the individuals of each caste take place under this designation. Brahmins preside and direct their deliberation, which relate exclusively to offences against the rules prescribed to that caste, which are punished by penance, fine, or in aggravated cases by expulsion. It can scarcely be doubted, that the punchayet of Mysore is analogous to the institution of the same name in Bengal, and that both have the same objects and jurisdiction with that of the yogas in Travancore, which have no cognizance of civil or criminal affairs. The sole difference probably is, that the decree of the yoga would be enforced by a Hindoo prince, whilst their authority would be rejected in a Mahomedan or English court. I hope I shall not appear inconsistent, if I here state my conviction that, at the time of the Mahomedan invasion, Hindostan had reached a higher degree of order, riches, and population, than it has since attained. I cannot, then, consider the spirit of the Hindoo institutions as adverse to good government, by which alone these effects are produced : but they were adapted to a state of society which has long since ceased to exist, and into which no legal enactments can again breathe animation and efficacy. The legislators of India wrote when that country was divided into an infinite number of small principalities, each of them scarcely exceeding the limits of a modern zillah. The Sovereign presided in his own court, and was assisted in his judgment by Brahmins selected for their legal knowledge. That tribe devoted themselves exclusively to their sacerdotal functions and to those occupations, in which learning was requisite : they enjoyed, and probably deserved, the esteem of the other classes, who felt their superiority in knowledge, and acknowledged their pre-eminence in birth. The interest which each petty prince naturally felt in the prosperity of his narrow dominion, the facility with which injustice might be discovered and detected, and gradations of rank sanctified by religious prejudices and maintained by superior knowledge, furnished the basis for those institutions under which India anciently flourished. But even the ruins have perished ; and of all innovations, the greatest would be to revert to Hindoo institutions in the government of Hindostan. I may here remark, that neither the punchayet nor yoga, nor any analogous institution, is mentioned in any of the law books which have been handed down to this day. All civil and criminal affairs are supposed, as in Travancore, " to be determined by the king or his servants." It must not be forgotten, also, that in reverting to Hindoo institutions, a large proportion of the actual inhabitants of Bengal, consisting of Mahomedans, would be exbluded from their benefits. It remains, dropping all speculations on the judicial system of the Hindoos, to consider the eligibility of another proposition. 6th. The propriety of substituting native agency, to a certain extent, for European. This proposition comes recommended by an object dear to every benevolent mind, that it would furnish a respectable employment for learned and intelligent natives. But would it be conducive to the great end of all good government, the pure administration of justice? I fear not. A pretty extensive observation of the state of society throughout Europe, convinces me that the natives of India are at least on a footing with Europeans in the prac-

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tice of moral virtues: but their characteristic defects singularly disqualify them from discharging judicial functions in a satisfactory manner. These, indeed, may all be traced to the natural and infallible operation of despotism on the human mind. A want of self-esteem, a disregard for the reputation of probity, an admiration for that species of talent which enables dextrous criminals to evade detection, an over-weaning respect for power and riches, a propensity to set aside general rules, and to discover in each case something which constitutes an exception, are amongst the qualities which I allude to. I beg it may not be imagined that I, in any degree, entertain the opinion that Bengal was misgoverned until the English obtained possession of it: the high state of prosperity in which they found it, would, to every impartial mind, sufficiently refute so gross a calumny. But the means of producing and maintaining that state we can neither possess nor use. Each provincial court, each village cutcherry, had its spies on the conduct of the presiding officer, which was regularly reported to Government, and its decisions on his proceedings were as summary and as little liable to be called into question as his own, by those subject to his jurisdiction. The criminal jurisprudence of Bengal was administered by native officers till a recent period; but the vigilant inspectation which previously watched its operation was discontinued, and the scenes of confusion and pillage, which evaded punishment, finally led to the establishment of a system more consonant with the maxims of those who now govern the country. The mechanism of government, during the flourishing period of the Mogul empire, involved a system of check, through the medium of private agents, extending from the highest to almost the lowest office in the state. The condition of the country is a proof of its success; but it was effected through the medium of an instrument, which it was repugnant to our principles to have recourse to, and which we never could wield with effect: we must not therefore imagine, that by clothing native officers with the same titles, and investing them with similar functions, we can ever produce a system equally efficient with that which existed under the Nazims of Bengal. Courts so constituted would possess all the disadvantages of the former, and would only want that which they excelled in, promptness and equity, effects due solely to active superintendence.

7. The probity of persons whose decisions affect the lives and fortunes of the natives, in a station remote from the presidency, is exposed to strong temptations. It may be useful to enumerate the restraints which, in such a case, are likely to operate on the mind of a Company's servant, and of a native Commissioner. A detection in judicial corruption exposes the former to the loss of a large salary in possession, he sees all his prospects in life vanish, the influence of his family which procures him the nomination to the service, the sums expended in a liberal education for a particular destination, the many years he has spent in acquiring experience and languages, now no longer available, all are sacrificed. He has to begin the world again, but with a ruined character; and the eminence on which he once stood he can never hope to regain. On the other hand, the salary of the native Commissioner is trifling. If the bribe is accepted, he trusts to his address to escape discovery; but should the worst happen, and he lose his office, the sum he has received is equivalent to many years purchase of his former salary. His family and friends are far from considering him in the light of a degraded person, and he resumes his former habits, without experiencing any other mortification than that of discovering that his address was unequal to the occasion.

8. Might I presume to conjecture the mode in which these ideas would probably be realized, I conceive it must be by a jury consisting of Hindoos or Mahomedans, according to the tribe of the defendant, whose deliberation should be guided by a Pundit or a Cauzy, dependent on the same circumstance. I have no hesitation in affirming, that unless one of the parties in a suit hope to influence either the Judge or the Jury, both would greatly prefer the decision of a Company's servant. But, after all, would decisions be accelerated by this institution? I conceive that, if an appeal is to lie from the decission, so far from being accelerated they would be greatly retarded; for the English Judge would then, instead of having to decide on the merits of one case, be obliged to pronounce also on charges of corruption, true or false, preferred against the subordinate jurisdiction.

9. Although

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9. Although I am satisfied that some permanent increase of the judicial establishment, and consequent reduction in the extent of Zillah jurisdiction, is called for, not as an object of beneficent policy but of strict justice and necessity, I beg to add a few suggestions.

1st. The machine of government in India requires constant repair and unceasing vigilance. Has the Bengal Government put the Court in possession of all the causes which have led to this extraordinary accumulation of undecided suits? May they not, in many cases, be traced to the indolence, infirmity, or incapacity of the Judges, and has Government adopted the suitable measures? When Lord Cornwallis separated the judicial functions from the revenue, he very naturally expected a great reduction in the number of undecided suits, the causes of disappointment in so natural an expectation should be very minutely invesigated.

2d. The instructions to the Judges directed them to endeavour to prevail on the parties to submit their differences to arbitrators chosen by themselves, and associated with an umpire named by the court. It would be desirable to ascertain, whether sufficient attention has been paid to this suggestion, which is the only unexceptionable method of employing natives in the administration of justice.

3d. If the circumstances of the Company be such as to exclude all idea of a permanent increase of the judicial establishment, I am not aware of any objection that can be urged against the appointment of temporary commissions to those districts where the accumulation of undecided suits has attained the greatest heighth. The persons so delegated should hold their sittings in a part of the district remote from the chief station, and all the suits pending between inhabitants of the contiguous country might be transferred to their tribunal. Temporary Bungalows are erected at a very trifling expense, and the commission would expire when the suits so transferred should be dispatched.

4th. I am not sure that Lord Cornwallis was quite right in supposing it indispensably necessary that judicial functions should be completely separated from every other; still less do I imagine that he would have adhered to it, under the present circumstances of the case. At present, whilst the Company's servants in that line find it impossible to dispatch, in a satisfactory manner, the multifarious business which forces itself on their attention, those in the commercial and financial line are almost unemployed, though their salaries are considerable, their establishments numerous, and such as might be rendered effective for other purposes. I would strongly recommend, at least as a temporary measure, that they be authorized to decide on causes under a certain amount, within a limited extent to be accurately defined, surrounding their respective residencies. This measure would, to my certain knowledge, have been considered as a great blessing by the inhabitants of that part of the country with which I am best acquainted, and I can discover no reason to doubt that it would prove generally beneficial.

As a week must elapse before I shall again be able to attend to this subject, I prefer transmitting you these hints, in their present rude state, to keeping them until I should have leisure to resume them. I beg, Sir, you will accept the assurance of my esteem, and believe me

Your faithful and most obedient servant,

(Signed) A. HAMILTON.

To Charles Grant, Esq. &c. &c.
Russell Square.

W. DORIN, ESQ.

The questions proposed by the Committee require much more information than I am able to afford: And as it would appear, from some of them, that the Committee misapprehend the nature of the employment I held in Bengal, it is necessary to state that I never held any office in the interior. I was attached to the court of Sudder Dewanny Adawlut at Calcutta, during about six years,

years, at first as an Assistant, and afterwards as deputy Register; and was employed principally in preparing reports of causes adjudged in appeal before the court, and of trials decided by it on the criminal side. Afterwards I was employed as translator of the Regulations into the country languages, and for a short time officiated as Register to the court. This I thought it necessary to state, in order that the Committee might know what were my means of information, and that I was merely conversant with the records and correspondence of the court to which I was attached.

As to the general fitness and efficiency of the judicial system established in Bengal, I should not consider it, under good management, unequal to the ends proposed by it. The Committee are aware of its general outline, viz. that the provinces are divided into zillahs or districts, each superintended by a servant of the Company, as Judge and Magistrate; that there are six provincial courts of appeal and circuit, and one superior court of civil and criminal jurisdiction at Calcutta; that a zillah Judge has jurisdiction over property to a certain amount, an appeal lying from his judgment to the provincial court; that the Register of his court is also a civil Judge in cases of a small amount, that is, within a certain specified value, which I do not at present recollect, appeals lying from him to the judge; and that there are also, at different parts of the zillah, native Judges, denominated Moonsiffs, &c. regularly licensed and appointed, with jurisdiction in cases of small amount, an appeal lying from their decisions to the zillah Judge; that the Judge, in his capacity of Magistrate, is a criminal Judge in small offences, assisted by his Register, and that, in more serious cases, he commits for trial before the court of circuit; that the provincial courts of appeal hear appeals from the court of the zillah Judge, and have jurisdiction, in the first instance, in cases of property above a certain amount, (I believe 5000 rupees), and, in their criminal capacity, the Judges in their turn go the appointed circuits, and have the power of passing final sentence of punishment to a certain extent, transmitting the record of the trial, in heavier cases, for the final sentence of the Nizamut Adawlut; and that the superior court, above named, revises and passes final sentence on referred trials, superintending, generally, the criminal courts, and, in its civil capacity, hears appeals from the provincial courts, and superintends, generally, the lower courts of civil jurisdiction.

In the course of my duties, as Reporter and as deputy Register to the superior court, I had occasion to consider many of the decrees and sentences passed by the civil and criminal courts. One great defect appears to me to have been, that men were not properly selected, that is, were taken too indiscriminately for the judicial line of the service; and another, that those who were properly selected, from natural capacity, or fitness for such duties, had seldom thought of turning their minds to any previous study connected with their profession, or rather had never found an opportunity of doing so. The Judges, besides, have had too much to do, as Magistrates, to allow of their civil courts being at all efficient. Causes cannot be well decided by any man, who has not leisure and time to weigh them well before judgment is delivered. The zillah Judges, in many cases, from the pressure of business, have really not time to deliberate. They must often decide on the moment, the best way they can. As their duties comprehend not only civil justice, but the criminal jurisdiction and the police of an extensive district, they are, many of them, not able to get through the business brought before them. And this is not to be wondered at, when we consider the great extent of country comprehended in a zillah, under the superintendance of a single man. I am not able to state, with any accuracy, the average size of the zillahs; but I have heard one zillah, in which I have occasionally been, (lying about seventy miles from Calcutta), computed at eighty square miles, with 800,000 inhabitants: and this, I believe, is not so extensive as some of the others.

It has been much the fashion, of late years, too, to neglect the civil courts. Whether the zillahs were quiet or otherwise, in respect to thieves and robbers came more immediately under the notice of the Government, than whether questions of disputed property were well or ill decided; and I believe it was once given out officially, that the Government would estimate the merits of the zillah Judges, and their claims to future promotion, by the occurrence, or otherwise of robberies in their districts. The natural consequence was, that the

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the Judges were intent in catching thieves, and were not likely to apply to the decision of causes with much success. I have known reports sent down to the superior court, week after week, that through the pressure of business on the criminal side, the Judges in various zillahs were only able to sit two, or perhaps one day in the week, instead of three, in their civil court: and I have even known some instances where the civil court of a zillah has been for some time shut altogether. This mode, however, of attending only to the criminal business, in some degree defeated itself; for those who could not get their disputes decided, would naturally decide them themselves, and be brought for breaches of the peace to the criminal side of the court, instead of the civil. A great press of business exists in the provincial courts of appeal, though there I do not know that the evil is so serious as in the zillah courts: and the Judges, though of course possessing more experience and general information, labour under the same disadvantages as the zillah Judges; and in cases at all out of the common way, I do not consider that their decrees can, in general, be favourably spoken of. With respect to their criminal sentences, the Committee are aware that, in those cases where they are competent to pass final sentence of punishment, a short report of each sentence passed is sent down, at the end of the session, to the court of Nizamut Adawlut, who are empowered by the Regulations to call for and revise such sentences as they think proper, and generally do call for the proceedings in cases, the decisionof which, on the face of the report, may appear suspicious or wrong. This is some controul over the courts of circuit, but not much. I have seen many sentences erroneous, which happened to be called for in this way, and some grossly wrong, in plain opposition not only to law but common sense. Not that this is generally the case; but that instances of it do occur, tending to show that, occasionally, very unfit men are entrusted with judicial powers.

From what I have said, I mean it to be understood, with respect to the zillah and provincial courts, that in the zillah courts, the pressure of business prevents the Judges from holding an efficient civil court; that there is a want of something like professional knowledge in the Judges, both of the zillah and provincial courts (I mean knowledge of the general principles of law, without which they cannot be expected to become expert in determining civil questions of any difficulty) even allowing that, for the same persons as criminal Judges, administering a simple code, good sense and assiduity, without much reading, may be sufficient; and, lastly, that part of the persons in the judicial line are not fit for that branch of the service.

Instead of young men being allowed to enter the judicial line, as inclination, or perhaps chance, may direct them, which has hitherto been the case, it appears to me that they should be carefully selected by the Government. Almost all who enter it must, in a few years, become Judges; an office which men, taken indiscriminately, cannot possibly be fit for.

It has often appeared to me, that if the public resources would admit of it, the offices of Judge and Magistrate would be better separate. A studious abstracted man is required for a judge, and an active, bustling one, for a Magistrate. But, at all events, it is high time to lighten the magisterial duties of the zillah Judges, otherwise it will be next to impossible that, as Judges, they can be at all efficient. It may be worthy of consideration, whether the Collectors, especially in Bengal, may not be made serviceable assistants in the criminal department.

I have as yet scarcely mentioned the superior civil and criminal court, that is, the Sudder Dewanny and Nizamut Adawlut. This is the court which must, in a great degree, give a tone and direction to all the rest. It is of the utmost consequence, that men of the first talents should be placed in this court; and it is, in general, very respectably constituted. But it is also of great importance, that its duties (for it has various miscellaneous duties, not properly belonging to a court of law) should be lightened. It has to superintend matters of police, and carry on a great correspondance as a board, as well as to determine important questions of civil and criminal justice as a court of law. The Committee are aware, that a plan has, within this year or two, been adopted, of publishing reports of cases, civil and criminal, decided by this court. The plan alluded to has not, as yet, I think, been carried far enough. I think it should be enacted by a Regulation, that from a given period,

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period, the judgments of the court shall be considered as precedents binding on itself, and on the inferior courts, in similar cases which may arise thereafter. This will have the effect of making the superior court more cautious, and of introducing something like a system for the other courts, the want of which is now very much felt. It will have the effect too, of being a check on the native law officers, Hindoo as well as Mahomedan, who have been much in the habit, some through ignorance, and others by design, of giving discordant opinions, at different times, on the same questions of law. I was employed, shortly before I left India, in examining some of the records in the Sudder Dewanny Adawlut, of the years previous to 1805, with a view to report and print such cases as had turned on points of Hindoo or Mahomedan law; and a set of reports were printed accordingly. It was found that, in several cases, the law officers had given opinions to the court, and judgment had been passed according to them, which are now known to be wrong. I think the Sudder Dewanny Adawlut is a court sufficiently respectable to warrant its decisions being taken as general precedents; that is, that points which it once determines shall be considered as law. In stating this, I mean it to be inferred, that hitherto it has not been much the custom to refer to precedent; and, for aught the Judges of the courts may know, the same points may have been decided over and over again, and perhaps not always the same way. It is obvious that having something like a system established, would tend to abridge the labours of the civil courts.

The Committee are aware of a very useful mode of preventing the expense of law suits, by men being able to obtain private opinions on cases of disputed property. Until something like a regular system is formed, opinions, of course, cannot be given with any probable certainty; but I see no reason why, in the course of a few years, something of this sort should not be established in Bengal.

As to the system of law administered, considering it separately from the administration, I think favourably. The criminal law, as the Committee know, is Mahomedan, modified and corrected by the Regulations, a mild and equitable code. It was established as the criminal law when we obtained the country, and has remained so ever since. Many would view it with considerable interest, in comparison with part of the sanguinary code of our country. I believe the punishment of death is only inflicted in cases of murder, or of robbery in which murder is committed. In every criminal trial, a Mahomedan law officer gives his Futwah on a consideration of the evidence delivered, reciting whether the fact is proved against the accused, and if proved, what the penalty is prescribed by the Mahomedan law. This, in fact, is some resemblance to the verdict of a jury; for if the Futwah acquits, the Judge must acquit also; and should it convict against his opinion, he transmits the proceedings for the revision and final settlement of the superior court, where a second Futwah is given. In civil cases, again, the mode of proceeding as prescribed by the Regulations, in the form of bill and answer, &c. is simple. In questions of succession and inheritance, the Hindoo and Mahomedan law, as expounded by the native law officers of the courts, are the rule of decision, as well as in any particular matters of religious or local usage; while the great mass of cases, relative to matters of contract between man and man, are referrable to the general rules of reason and law: for which, of course, no precise instructions are laid down, the Judges being left, if I remember rightly the terms of the Regulations, to decide according to "justice, equity, and good conscience." This is the wide field for which the judicial servants require previous study and instruction. What the mode should be in which that is to be obtained, I am not prepared to say. I remember a plan being once talked of, of establishing lectures for the young men about to enter the judicial line, and it was proposed to an able lawyer, with whom I was acquainted, to undertake the task. Some obstacle, however, arose, with which I am not acquainted, and the scheme was dropt.

Of the native law officers, Hindoo and Mahomedan, attached to the courts, I am afraid there are many not very well qualified for their offices. I state this, judging from various opinions I have seen given by them, and from what I have always heard respecting them, not from any personal acquaintance; for I have conversed with scarcely any of them, but those attached to

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the superior court. Among the law officers attached to that court are, as far as I am able to judge, some men of very respectable talent, well qualified, in that respect, for their office. But I cannot help observing, that they are very ill paid. Against one of them (a pundit) a criminal process, for being bribed to give an opinion contrary to law, was depending when I left India. The pundits of the courts (two in number) receive a salary of one hundred and fifty rupees per month, and are every day called upon to give opinions, according to which judgment must be given, in cases involving property to very great amount; and many of the suitors in those cases are not at all backward to purchase favorable opinions. The Mahomedan law officers are rather better paid, being employed in criminal cases as well as civil: but two of them get only three hundred rupees per month. It is obvious, that men who have so much entrusted to them, should not be paid in such a manner as to leave them but little interest in their offices and much temptation to be dishonest. An addition to their pay would, I am persuaded, be of great advantage to the judicial system. The same remark is applicable to the law officers of the inferior courts, the pay of whom is much lower than those in the higher court. Indeed, I should suppose that the frequent instances of incapacity which occur among them, may be accounted for, in a measure, by the lowness of the pay allowed them. It is not sufficient to procure the ability and knowledge requisite for the office. I think the attention of the Government should be directed particularly to putting this branch of the establishment on a more efficient footing, and that if the public resources cannot afford an augmentation in any other way, it would be advisable to do it by retrenchment from any other part of the public service, in which it may be least hurtful.

I have heard a good deal said respecting the expediency of the judicial servants, or some part of them, becoming acquainted with the Hindoo and Mahomedan laws, through the medium of the original books in the Sanskrit and Arabic languages, with a view of controuling the native lawyers: and were this practicable, of course it would be very desirable. But so much is already required of the Judges, and their time so completely occupied, that I am not aware of its being possible for them to become sufficiently masters of two difficult languages, of which a cursory knowledge would be of little use for the purpose in view. There are already some translations of useful law books from each language; and I suppose it will generally happen, as it has hitherto done, that an individual, here and there, is acquainted with the originals, to whom reference may be had in cases of importance. Were it not that a new expence must be incurred, the most effectual plan would be to constitute an office, of which it should be the sole duty, after a ground-work in general law, to become acquainted with the original authorities of Mahomedan and Hindoo law.

There is still one point which I have omitted to mention. The Committee are aware, that the judicial proceedings in Bengal are carried on and recorded in the Persian language, with which the judicial servants are, or ought to be, as familiar as with their own: and, on the whole, I think it a plain intelligible dialect, not ill adapted to the purpose. But I think that, in all decrees, the Judges should be required to draw up and attest an English copy, as well as a Persian one. Instances will occur, where the language is not sufficiently understood; and it happens not unfrequently, that blunders or absurdities pass in a decree in a foreign idiom, which could not well have been unnoticed in our own. This plan, too, would oblige the Judges to trust less to their native officers in drawing up decrees. I will now refer to each of the questions proposed.

The first has already been considered.

Questions 2 and 3.—I am not acquainted with any ancient system of Hindoo institution, or with the village courts alluded to in the third question. The punchayet is, I believe, a sort of decision by arbitration, The word implies a committee of five persons; but I believe, any number of persons, more or less than five, may form a punchayet. The Regulations direct the encouragement of decisions by arbitration; formerly in cases only of personal property, but by a late rule, in cases of all kinds. I am not aware of any native system that can be substituted for the one now subsisting.

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Questions 4 and 5.—The fourth and fifth questions have been before adverted to.

Question 6.—I am of opinion, the expense of the system cannot be reduced, by lessening the number of courts, without manifest injury to the country. I have often wondered how things go on so well as they do, with so great an extent of country as is contained in a zillah, under the jurisdiction of one man. I am not very conversant with the native ministerial officers of the courts, but I do not imagine that any material saving can be effected in respect to their pay or number. Their pay is in general very little, and the work to be done by them must be heavy; and the Committee will recollect, that it is the European officers who are the great expense of the establishment. Even were retrenchment made from the pay of the native officers, it would be a paltry saving.

Question 7.—I do not exactly comprehend the intent of the seventh question, and am unable to give any satisfactory answer to it.

Questions 8 and 9.—I think it quite out of the question to trust the natives with any principal part in the administration of justice. I am not aware that they want the ability, that is, ability sufficient to decide ordinary questions with tolerable skill, though I have met with few instances among them of any thing like comprehensive talent. But the natives, even the better sort of them, are notoriously open to corruption: there is scarcely any thing like principle among them. I do not know that a man is thought much the worse of by his fellows by being discovered in an act of roguery. The few native Judges that are at present employed in the different zillahs, almost under the eye of the Judges, to determine causes of small amount, show every day instances of what I mention. I have continually seen them turned out by the superior court for mal-practices, and have had occasion to examine papers which contained the proof of their misconduct. I know there are some, who think these native Judges do more harm than good, and should be dispensed with altogether. From want of experience in the interior, I cannot myself undertake to give any decided opinion with respect to them. It is evidently of consequence, that there should be authorities of some sort for deciding causes of trifling value, at different parts of the zillahs remote from the Judge's station, where the amount in dispute is small, and the distance too great to allow of the case being brought before the Judge. I imagine one defect of the system to be, that the emoluments of these native Judges are, in many instances, not enough to support them.

With respect to the administration of justice by the European servants of the Company, I believe that, generally speaking, it is carried on with great integrity; and that the natives, on that head, place a proper reliance on it. Instances of individual delinquency have, I know, sometimes occurred; but these cannot fairly be connected with the general character of the judicial servants. They will occur in any large body of public men.

Question 10.—I cannot answer the tenth question with any certainty.

Question 11.—I have had no local experience with respect to the established system of police. I am only acquainted with its rules on paper.

Question 12.—As before stated, I was never employed in any zillah.

Question 13.—I believe it is not unfrequent for the courts to recommend adjustment by the parties in a suit. I have known several instances, in which the Sudder Dewanny Adwalut has recommended a compromise, which the parties have adopted. I am not acquainted with any particular reference of cases to punchayet.

This is the whole of what I am able to state to the Committee. It is necessarily written from memory, as I have none of my papers or books with me in this country; and, considering the shortness of the period which I have resided in India in the Company's service, the Committee will, of course, receive with caution any hints or suggestions I have thrown out.

(Signed) WILLIAM DORIN.

Brighton, 1st December, 1813.

Questions

T. PATTLE, Esq.

Answers to Court's Queries.
T. Pattle, Esq.

Questions proposed.

1. What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration establisned in Bengal, and the provinces depending on it?

Answers submitted.

1. I am inclined, on general principles, to think well of the existing system of judicial administration established in Bengal, and its dependencies; and to submit it as my opinion, that very beneficial effects have resulted from the operation of a code of laws constituted to secure the inhabitants in the possession of their property, and in the exercise of their private rights; a system in which their confidence is much strengthened, from the circumstance of its affording protection against infringement, even by the supreme authority, or its subordinate officers entrusted with the administration of civil and criminal justiee.

2. Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British government?

2. I do not profess to be well informed respecting the ancient Hindoo institutions, or their system of administering justice. I entered, late in life, on the situation of Judge and Magistrate, and was, after holding it a short time appointed to the office of senior Judge of Appeal and Circuit. In these situations, the active duties attaching were many and laborious, (I may add, most unremittingly so), and left me no leisure for study or research for information from history: but, so far as I feel competent to submit an opinion, it would not be in favour of recurring to any system which obtained amongst the natives, antecedent to interference by our Government.

3. Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by Punchayet?

3. I cannot state any particulars, conveying inf rmation respecting ancient Hindoo judicial institutions in Bengal. Nothing of that description fell under my observation, even so far back as my first entrance on the service, upwards of forty-eight years ago. I never knew the Punchayet, as a court of criminal or civil jurisdiction, regularly established, with identification of members. In matters which, I believe, I may term merely ecclesiastical, where it has been a subject of consideration whether a party had done that which incurred loss of caste and excommunication, or whether having partially transgressed, he could not, by certain forms and measures of atonement, be again received into their communion, and to what nature and extent of penalties he was become liable; these were questions or inquiries referrable to the Punchayet, that is, to an assembly of men of his own tribe, convened especially for the purpose, or perhaps to some of the Brahmin caste. I have frequently observed a few men assembled, sitting on a mat under a tree, sometimes in the market-place or by the road-side, and have been told, in answer to my inquiry, that it was the Punchayet investigating a matter of caste. I think I recollect instances where references have been made from our zillah courts to assemblies of this description, when actions have been brought for defamation on the score of caste; and under their award, such actions have abated. This, of course, partook of the nature of arbitration. I conceive that Punchayets, so assembled, were composed of members casually summoned *pro re natâ*, and not authorities permanent, regularly constituted or identified.

4. If this system, introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the ex-

4. I am not aware that the decision of causes can be accelerated, except by augmentation of constituted authorities, for the purpose of trying and deciding: or by affording such relief, in the duties of those at present existing, as may enable them to allot a greater portion of their time to the Adawlut. At

pense of suitors; and, in general, what in your opinion are the best means of remedying any existing defects in the system?

At present, I think the Judges are interrupted, and much of their time allotted to their magisterial duties, in which they might be essentially relieved if the Collectors were appointed Magistrates. The Collectors have less to occupy their time and attention than any other class of servants, and have full leisure for this additional duty, which would relieve the Judge, without entailing any increased expense on Government, and benefit the natives by the acceleration of decisions. Their access to justice, I think, at present possesses every possible facility. The mode of proceeding is as simple as circumstances admit, and I do not see how the expense of suitors can be abridged, without giving encouragement to litigation, which is at present a feature sufficiently prominent in the Asiatic character. Should the Collectors be invested with magisterial power, rules must be laid down to prevent clashing of authority with the courts now existing.

5. What do you take to be the chief advantages and disadvantages of the British judicial system?

5. I have already stated the essential benefit emanating from the established judicial system, as affording to the inhabitants greater security in the possession of their property and their personal rights, than ever they had under their own forms of government, together with every facility in obtaining justice: advantages which seem to embrace every thing I could state in detail. The chief disadvantage that occurs to me, arises from the Regulations having become so extremely voluminous, in some respects complicated, and in some contradictory. I think the evil goes to the extent of embarrassing those entrusted with administering them, and that Government itself is occasionally fettered by their own enactments. It requires much time and close study to become well acquainted with the code: practical duties leave little leisure for application by the superior authorities, and the established pleaders seldom obtain a full and ready acquaintance with the laws by which they must regulate their pleadings. I speak of the Regulations as they stood when I left India, and I understand they have increased considerably.

It would, I think, be advisable, that they should undergo revision and abridgement, by persons competent to the task, who may, without doubt, be found amongst the judicial servants.

6. If you are of opinion that this system should be continued, in whole, or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment, particularly in native servants and their allowances, for those courts?

6. I do not know how the expense of the judicial system can be diminished. The establishments have all undergone frequent revisions, and consequent retrenchments, as far as practicable: in some respects, it appeared to me at the time, further than was expedient or politic. The native servants' allowances are regulated on a scale of as much economy as can prevail, without losing sight of a proper selection of persons for situations, or without stimulating them, from scantiness of means of subsistence, to recur to venal practices, to which they are ever but too much disposed. I am confident that reference to the number of causes pending in the several courts, respectively, must evince that a reduction in the number of tribunals would be impracticable.

7. Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

7. I hardly know how to answer this question. I believe the mass of the people to be well satisfied with the system at present established; still I do not consider that we have any hold on them from motives of personal attachment or gratitude. Apathy is a leading feature in their character; they would see a change of masters with perfect resignation, and submit with calm indifference to a new government and new laws. On a population so organized, little operative or progressive consequence is to be expected from a legislative system. The connection between the governors and the governed cannot be sufficiently approximated (from various obstructing causes, as well moral as physical) to encourage hope

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of inducing, in the minds of the natives, full confidence or decided attachment to our government. I do not think any material change on the state or opinions of the natives will result from the established system, looking progressively beyond what is already observable in their confidence with respect to the fair and equal administration of justice.

8. Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

8. I think the natives do confide more in the uprightness of European Judges, than they would in Judges selected from their own people.

9. Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administration of justice; and how far, or more particularly, can any branch of the administration of justice be trusted exclusively to the natives; or will it be necessary that in any part of a judicial system allotted to their execution they should be superintended by Europeans?

9. I do not think it would be advisable to entrust the natives with the administration of justice exclusively, uncontrouled and free from superintendence of European authority. I want confidence in their integrity. I consider them very generally venal, but not deficient in capacity or in diligent application. Under proper superintendance, their talents may be beneficially called into action.

10. Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

10. I feel quite incompetent to afford any satisfactory information in answer to this inquiry. I could speak only from general report. resulting, I apprehend, chiefly from conjecture.

11. What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient, or do you think it would be practicable and expedient to resort to any of the modes practised by the native Governments for maintaining the peace and order of the country?

11. Much has been already written on the subject of police, by all those who, from being constantly employed in the departments in Bengal, may be considered most competent to give information, and the question submitted embraces a most extensive field of enquiry. I certainly think the state of the police admits of considerable improvement, and that it might be rendered more perfect and efficient than it is. Its principal defect seems to be, the entire want of cooperation, on the part of the governed, with the established authorities, without which the expense of an efficient police must be enormous. By the original constitution of the country, the inhabitants generally were bound to cooperate with the executive officers of police, the Zemindars were made responsible for losses sustained by robberies committed within their respective districts, they indemnified themselves by general assessments and taxes imposed on their tenants, to meet the call made on the landholder, and an establishment was kept up, not only in principal towns but in each village, of watchmen and officers, of various denominations and descriptions, whose services were remunerated by grants of land which they held free of rent. These grants have been generally resumed, with a view to increase of revenue; the ancient establishments have been discontinued without adequate substitutions, which have been withheld on account of the expence to which it would have led. There seems now to be no preventive police: and to that, I believe, is imputable the increase of dacoities and robberies. There are, I think, many obstacles in the way of recurring, after so long an abandonment, to the system practised by the Mahomedan Government for maintaining the peace of the country. I do not feel that I am competent to go into a detail of reasoning on that subject, situated, as I am, remote from the scene of action, which would afford easy reference on points of importance, and without the help of records for assistance; nor could I at any time, or in any situation, hope to submit to those I am now addressing, information more complete, more useful, and more conclusive, than can be derived from inspection of the many able reports made by the constituted Authorities in Bengal, in answer to the inquiries from the Governments respectively, or by the members of the different Courts of Circuit, individually, when reporting (as by the regulations ordered) at the close of each session. I hope such reports as I have submitted, whilst

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holding official situations, may throw some light on the subject, and may be found to evince a proper zeal for the service, and a lively sense of interest for those over whom I was placed in authority; And to those documents I respectfully beg to refer, for a more general communication of my sentiments on the subject of police, than I can now pretend to offer.

12. Can you state what the limits and superficial contents were of the district in which you acted?

12. I cannot give the information asked in this quere, applicable, I conceive, to the situation of Judge and Magistrate, and not to that of a Judge of Appeal and Circuit. I acted in the former capacity a very few months, and only in the province of Burdwan; the limits and superficial contents of which may be best ascertained from surveys made, and maps prepared therefrom, all of which, I must conclude, are in the possession of the Court of Directors.

13. Have the Courts of Adawlut at any time recommended to parties in a cause to withdraw the suit, and submit it to the decision of the Punchayet; or has the Punchayet, at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

13. Answered in my reply to the third quere.

(Signed) T. PATTLE.

Bryanstone Street, 7th December, 1813.

T. H. ERNST, ESQ.

Answers to Court's Queries.
T. H. Ernst, Esq.

Question 1st.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established in Bengal and the provinces depending on it?

Answer 1st.

The present judicial system, when first established, can hardly be said to have been well suited to the natives of India. It was at variance with all their habits and prejudices. They had been accustomed to the arbitrary Governments of Hindostan; they had been taught to look up to the ruling power, or its representatives, for the redress of all their grievances. They had no idea of being protected by the law against abuses of power. When an Aumil was guilty of gross injustice and oppression, they might endeavour to get rid of him by a clamorous remonstrance, in a body, to the authority to which he was accountable for his conduct; but, generally speaking, they were quite at his mercy. If he happened to be a man of an active and benevolent mind, who lent a ready ear to complaints, and afforded speedy redress for acts of violence and injustice, the country prospered, and the people were happy and contented. The benefits which they derived from arbitrary power in the hands of such a ruler, made them cherish it as the only mode of administration that could effectually protect them; and this prejudice maintained its ground, in spite of the misrule and oppressions to which they were continually subjected. Probably they had no conception of a more safe and rational system, till they saw the effects of the judicial Regulations of 1793. The spirit of the old institutions of Hindostan survived their formal abolition as long as the Company's servants united in their persons the offices of Collector, Judge, and Magistrate. Some checks, indeed, and a more efficient controul, were established by the gradual introduction of European ideas and principles of legislation; but by the force of custom, the natives at large continued to look up to the Collector and Magistrate, who presided over each district or ancient division of the country, as the supreme authority, on which they had to depend for protection and justice. The separation of the Revenue and Judicial Authorities, in 1793, suddenly changed this state of things, and it was a long time before the natives could properly understand, and justly appreciate, the new system. Instead of the simple process of obtaining summary

Answers to Court's Queries.

T. H Ernst, Esq.

mary justice by a direct appeal to the ruling power placed over them, they saw a division of authorities, and new and artificial modes of procedure, which puzzled and perplexed them. The collection of the revenue had hitherto been considered as the most important branch of the public administration, and civil and criminal authority had been usually exercised by the persons invested with that charge. By the Regulations of 1793, the natives saw the judicial department take the lead of the Revenue, and the latter sink into comparative insignificance. They saw the ablest and most experienced of the Company's servants appointed to judicial situations, and when they felt themselves aggrieved, they were obliged to go to the courts of justice for redress. They were even encouraged to sue the Collectors and their officers in these courts, for undue exactions and other abuses of authority. These new Regulations, though repugnant to the former usages of the country, were in many respects highly beneficial: they had an obvious tendency to check abuses on the part of revenue officers of every description, and under this change of system many just complaints were no doubt preferred, which would otherwise have been suppressed. The natives, too, were gradually trained to more liberal and manly notions, than they could ever have imbibed from the ancient customs of the country. They began to look beyond the power or caprice of an individual, and to seek a more steady and effectual protection from the laws. They found that they could now assert their rights without the favour or patronage of the great, and that the laws and Regulations, enacted for their security, would be duly carried into effect by courts of justice, which could devote their whole attention to this duty, and had no personal interest or bias that could influence their decisions. But these important advantages were not without alloy. The new course of justice, by the numerous forms and the elaborate pleadings to which it gave rise, became productive of perversions and delays, which encouraged many litigious and vexatious complaints. The Company's servants, also, laboured under peculiar disadvantages, from their imperfect knowledge of the language and of the manners and customs of the people; and their difficulties were increased by the artifices employed by suitors, and by the contradictory evidence which was exhibited in almost every cause. They often found that they could afford no adequate protection against many of the abuses which prevailed, particularly in the collection of the revenue; and the tardiness of the proceedings in the civil courts, together with the increasing arrear of business, bore hard upon the lower orders of the people, and sometimes left them at the mercy of those against whom they were seeking redress. Poor suitors found it their interest to compromise their grievances, rather than to await the doubtful issue of a tedious and expensive contest in the Dewanny Adawlut; for the issue has been rendered very uncertain by the prevalence of perjury (which has been gaining ground, I fear, in most parts of Bengal), particularly when it has depended upon the testimony of revenue officers employed in keeping accounts of the collections, and upon the result of local investigations, which seldom escape the imputation of partiality or corruption.

In order to check litigiousness, and to accelerate the decision of causes, the institution fee and other law charges have been gradually increased, to the serious prejudice of the poorer classes of the people; additional courts have been established for the trial of civil causes, and various limitations have at different times been imposed on appeals. But in spite of these partial remedies, suits have multiplied so fast, and such an arrear of judicial business has arisen in the courts of the European Judges and Registers, in some parts of Bengal, that when I left the country, about two years ago, there was a virtual denial of justice to many of the suitors, who were obliged to resort to those courts for redress.

This evil has grown up under the present judicial system, and it has been held out as a striking proof of its failure. But though it loudly calls for a remedy, it by no means implies that the system itself is inferior to that which preceded it: On the contrary, an argument may be fairly drawn, in favour of the present system, from the increased number of suits to which it has given rise; for it can hardly be supposed, that so many suits would have continued to be instituted, had the natives found that they could obtain no redress of their grievances: and, in point of fact, I believe that, during the

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last twenty years, more than ten times, perhaps twenty times as many causes have been decided in all parts of the country under the present judicial system, as were ever decided before, in equal periods of time, when the Collectors were entrusted with the administration of justice.

It may also be remarked, that, generally speaking, the causes of the poorest suitors have been decided within a twelvemonth by the native Judges, and that the delays of justice have been chiefly confined to suits which were exclusively within the cognizance of the European Judges and their Registers. At all events, when the present system was first established, the separation of the Revenue and Judicial Authorities seems to have been essential to the prompt and impartial administration of justice; for the former Judges and Magistrates, who were likewise Collectors, were so much employed in the settlement and collection of the revenues, which was generally considered as their most important duty, that they seldom had time to sit in the courts of justice. It was also found, that the zeal for the public interests committed to their charge, and for the success of their own measures, were apt to influence them in the decision of revenue causes, and they sometimes had to sit in judgment on their own acts. On all such occasions, the natives were naturally slow to complain; and I am convinced that, in consequence of the separation of the two lines, hundreds of suits have been filed for exaction and other abuses in the collection of the revenue, for which the sufferers would have made no attempt to obtain redress under the former system.

With regard to the effects of increasing the institution fee, and other law charges, it seems highly probable that, if litigious suits have been somewhat checked, a greater number of just complaints have been kept back, from the inability of some of the lower classes of the people to defray those charges without greater sacrifices than they have found it worth their while to make; and the progressive increase of causes, notwithstanding all the measures which have been taken to expedite the administration of justice, must, I conceive, be chiefly owing to the benefits which the natives have actually experienced from the establishment of the present courts of justice, and to the sense which they entertain of the equity and impartiality of their decisions.

I am therefore of opinion that though, in some respects, the judicial system has failed, it has, on the whole, been attended with very beneficial effects to the country.

Question 2d.

Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Question 3d.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by Punchayet?

Answers 2d and 3d.

I am not acquainted with any system of ancient Hindoo institution which could, with advantage, be substituted for the system introduced by the British Government. If any Hindoo institutions or regular courts of judicature ever existed in Bengal, I believe that no vestiges of them are now to be found; and under former governments, I imagine that even the Hindoo laws of inheritance had but a limited and precarious operation, and were sometimes altogether set at nought. With regard to village courts and the decision by Punchayet, I never heard in Bengal of such institutions: but the term *Punchayet* or *Punja* is familiar to the natives in most parts of the country, as a mode of settling disputes by arbitration; and in its common acceptation it is applied to one or more persons, who are chosen by the parties for that purpose. Matters of caste and petty disputes of every kind are often settled in this way, to avoid the trouble and expense of regular complaints to a court of justice.

Question 4th.

If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any amelioration, that would accelerate the decision of causes,

Answer 4th.

The settlement of the land revenue having been rendered permanent in Bengal, many parts of the judicial system, which depend upon this important measure, cannot, of course, be changed;

causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

changed; and the natives having, by the experience of twenty years, become accustomed to this system, I conclude that there is no idea of sweeping away any material parts of it, for the purpose of reviving any institutions which may formerly have existed in India. At the same time, it must be acknowledged that our judicial system is extremely defective; and unless measures are taken to accelerate the decision of causes, there will be a failure of justice in some of the zillah courts, where there is a great pressure of criminal business. I am not aware that the judicial proceedings can be simplified; for though they run into greater length, and occupy more time than they used to do under the native Governments (when, in fact, there were seldom any regular proceedings at all), they do not appear to be hampered with more forms, or to be necessarily attended with more delays, than are requisite for the ends of justice; and the prolixity of pleadings and the introduction of irrelevant matter, which are so much complained of, are abuses incident to all courts of justice, which can only be corrected, perhaps, by the experience and gradual improvement of the bar.

The expense of suitors should, I think, be abridged, in suits within a certain amount, by some reduction in the charges of fees and stamps; and if it is apprehended that litigious suits will be multiplied, by rendering the courts of justice more accessible than they are at present to the lower classes of the people, I can only say, that the means of deciding causes must be increased in proportion, for litigiousness will be most effectually checked by prompt decisions. This, in fact, is the great desideratum in our judicial system; and as all reforms seem to be excluded which involve additional expense, the only way, I conceive, in which the administration of justice can meet the exigency of the occasion, is by making the most of the Company's servants who have sufficient leisure for pursuits beyond the sphere of their own offices, and by employing more of the natives as Sudder; Aumeens, Moonsiffs, and Commissioners, with increased powers, and with such allowances as may afford some security for the faithful discharge of their trust.

Most of the Collectors of the land revenue and of the customs have so little to do, that they can very well spare time to assist the Judges and Magistrates in some of the duties of their offices; and they might be empowered to decide civil causes to a certain amount, and to take cognizance of all criminal complaints, which the Magistrates are competent to try under the existing Regulations. I see no objection to the Collector being permitted to decide almost all revenue causes that now come before the courts; for as the permanent settlement has been long concluded, a Collector can seldom have any interest in such causes, at all incompatible with his duty as a Judge, and in all cases where such an interest can be supposed to exist, he might be excluded from exercising any judicial functions. But it would, perhaps, be a better plan to reduce the number of collectorships, and with the saving accruing from this arrangement, to provide for the appointment of additional assistant Judges and Magistrates, wherever they may be most wanted. The four collectorships of Behar might easily be managed, I think, by one Collector residing at Patna; and in most parts of Bengal a Collector, with the help of a few native Tehsildars, might superintend the collections of two districts. In all offices, the business will be best done when a man can steadily apply his undivided attention to it.

It has been suggested, I believe, that the Collectors might hold the office of Magistrate, and be invested with the sole charge of the police; but I cannot acquiesce in the expediency of this plan. The Collectors having now little more to do than to collect the land tax, which in most parts of Bengal is paid with punctuality, they seldom come in contact with the body of the people; and by the gradual progress of the judicial system, they have lost almost all the influence which they formerly possessed over the Zemindars and their agents, and the other officers employed in the collections. Moreover, the peace and welfare of a district so essentially depend upon the proper superintendence of the police, that as long as the situation of judge continues superior

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to that of a Collector, and is filled by more experienced servants of the Company, I am of opinion that such an important branch of the public administration should, on no account, be taken out of the hands of the Judges and consigned to the Collectors. If the Collectors are permitted to interfere at all in the police, it should only be, I think, in concert with, and in subordination to the Judges.

But, after all, any arrangement that can be made to relieve the courts of justice by the services of additional *European* Judges, must be utterly inadequate to the occasion. All the present Judges and Registers do not take cognizance of one tenth of the civil causes, which are actually decided every year, and the appointment of half a dozen additional Judges would not materially improve the general state of the Judicial department. The only effectual means of expediting the administration of justice must be derived from the employment of the natives; and I am of opinion that the number of Sudder Aumeens and Moonsiffs, and particularly of the former, should be increased, that their powers, if necessary, should be enlarged, and that fixed salaries should be allotted to them, instead of the wretched and pernicious remuneration which they at present receive for their labours from the institution fee

Question 5th.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer 5th.

In my answer to the first question, I have stated my opinion, generally, of the advantages and disadvantages of the judicial system. One of the most important benefits which the natives have derived from it, is the security which it has afforded them in their persons. They are no longer beat and tortured, and imprisoned, as they used to be, by the officers employed in the collections, and by their private creditors; and this very material change in their condition should never be lost sight of, in discussing the merits of the present system. The weavers, too, and the Molunghies, who are employed by the Government, are much better treated, and in easier circumstances than they were formerly. But I am afraid that the Ryots, who compose the great mass of the population, are, in all respects but their exemption from personal violence, in as bad a state as ever, and that, of late years, they have suffered more from exaction than they ever did before. It has always appeared to me, that while the Government absolutely limited its demands on the Zemindars by the permanent settlement, no adequate provisions were made for defining and securing the tenures, and for improving the condition of the Ryots It was supposed, that the boon of the permanent settlement conferred on the Zemindars would inspire them with sentiments of benevolence towards their Ryots, and that they would second the views of Government, by granting liberal leases and taking specific engagements from them: but this expectation has completely failed, very few pottahs having been granted in any part of Bengal The whole revenue system in Bengal is, I think, extremely defective, as far as it regards the Ryots. The rates of assessment are, in general very high, being equivalent to half the produce; and for the same descriptions of land they vary very much in different parts of the country, and even in the same pergunnah and in the same village. When disputes have arisen about the rents, a Nirkhbandy, or table of rates, has been commonly taken from the Munduls, or head Ryots of the villages; and I believe that they have often been raised, in this way, by corrupt collusive bargains with the Zemindars, who, in return, have favoured these Munduls at the expense of the other Ryots. I have known several instances in Burdwan, in which Aumeens deputed by the court to fix the rents of the Ryots, according to a measurement and jummabundy, have rated them so high, that the Ryots declared they could not cultivate their lands if such rack-rent was demanded; and the Zemindars themselves, inexorable as they commonly are, on these occasions agreed to forego a good deal of the rent, which the Adawlut was obliged to consider as their strict right.

At the time the permanent settlement was made, a considerable body of intermediate tenants standing between the Zemindars and the cultivators, and occupying a specific quantity of land, or a whole village, and sometimes several villages, existed, under various denominations, in most of the districts of Bengal. These people had held their lands many years, frequently for several generations, at a low rate, without grants or leases, and, by the custom of

of the country, their tenures had come to be considered as equivalent to those of dependent Talookdars or Mocurrerydars. It is true, that they had no security for their rights (if any description of landholders or tenants could be said to possess rights) under the native government. In common with the Ryots and Zemindars themselves, they had been subject to all sorts of exactions; nevertheless, many of them kept their places. They were enabled to support their families from the produce of their lands, and they were more or less at their ease, according to the personal character of the Aumils. Owing to continual changes in the Moffussil settlements, and to the exactions of the revenue officers, it had seldom happened that these tenants had paid the same rent for a period of two or three years, and as the regulations only admitted mocurrery leases of this description, on proofs that the same rent had been uniformly paid for twelve years together, this class of people were gradually reduced to the level of cultivating Ryots, and required to pay the same rates of assessment. If they would not agree to these terms, they were liable to be dispossessed of their lands, and the courts of justice were obliged to support the landholders in carrying this measure into effect.

But the greatest misery and oppression which our system has occasioned is to be traced to Regulation VII. of 1799, whereby the checks provided by the Regulations of 1793, to protect the Ryots from undue exactions, were either withdrawn or rendered altogether nugatory. This regulation empowered the Zemindars and farmers to levy, in the first instance, their demands, whatever they might be, by distraint, and left the Ryots no remedy for the abuse of this power, but a regular suit for damages against the distrainer; so that the Ryots might be utterly ruined by exactions before they could obtain any redress, and as the courts of justice were almost choaked up with arrears of business, they were seldom disposed to seek it.

It is hardly possible to exaggerate the mischief which has arisen from abuses of this distraining Regulation. The process of levying a demand of revenue by distress has often assumed the character of a barefaced robbery and has been productive of serious breaches of the peace. More has probably been extorted from the Ryots in this way, than was ever done by all the terrors of the old arbitrary system of violence and imprisonment. When the sums claimed as arrears have not been justly due, the Ryots would not tamely submit to the loss of all their property, and they have not only assembled their families, men, women and children, but whole villages have occasionally turned out, to resist the process and drive away the people, even the officers of police, who had been sent to enforce it. I believe there is hardly a Magistrate in the country who has not found it necessary to interpose his authority, for the purpose of checking distrainers in the *legal* exercise of their powers; and they have sometimes passed an order, forbidding the sale of property which had been attached, and requiring the distrainer to institute a regular suit for the recovery of his demands. This sort of interference, on the part of the Magistrate, was certainly irregular and illegal; but occasions have occurred, when no man who interested himself in the welfare of the Ryots, and felt it his primary duty to protect them from rapine and oppression, could hesitate to take upon himself the responsibility of such a proceeding.

Whenever a claim for an arrear of rent is contested, a summary inquiry should be made before it is levied by distress, for the purpose of ascertaining whether the whole, or any part of it, is due. In the present state of the judicial system, the Moonsiffs and the Commissioners are the only persons who can well be entrusted with this inquiry; and according to the result of it, an order should be passed for the sale of the attached property, or for withdrawing the attachment until a legal judgment can be pronounced on the merits of the claim.

It has been a melancholy effect of the change of system in 1793, that in the course of seven or eight years, it contributed a good deal to the ruin of most of the great Zemindars of Bengal, and that, since that period, it has subjected the Ryots to most grievous exactions. Before Regulation VII. of 1799, came to the relief of the landholders, they certainly had no adequate means of realizing their rents; and by that time, or very soon afterwards, the estates of two-thirds of the principal Zemindars, with whom the permanent settlement

settlement had been concluded, were sold by public auction for the recovery of arrears of the public assessment. The estates were chiefly purchased by inhabitants of Calcutta and other districts; and these strangers, without any sympathy for the Ryots, and anxious only to make the most of their purchases, enforced the new rules for distraint with the most unrelenting severity. They were enabled, too, as purchasers at a public sale, under Regulation XLIV. of 1793, to annul all former leases. The Ryots, of course, found themselves entirely at their mercy, and they were harassed by exactions, and dispossessed of their lands, with little or no prospect of relief from the courts of justice.

Question 6th.

If you are of opinion that this system should be continued, in whole, or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment, (particularly in native servants and their allowances,) for those courts?

Answer 6th.

I have no idea that the expense of the judicial system can be diminished either by reducing the number of courts or the scale of establishments for those courts. On the contrary, I am of opinion that the number of the courts, and the allowances of some of the native officers, should be increased.

Question 7th.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Answer 7th.

With the improvements of which the judicial system appears to be susceptible, it is to be expected that its progressive operation will ameliorate the condition and enlighten the minds of the people. But, hitherto, very feeble approaches have been made towards these results; and the distance at which we keep the natives, our limited numbers, and the want of all social intercourse with them, must, in a great measure, confine the influence of our institutions to the courts of justice, and to the public administration of our laws.

Question 8th.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Question 9th.

Are you of opinion that the natives may, in respect to integrity and diligence, be entrusted with the administration of justice, and how far; or more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that in any part of a judicial system allotted to their execution they should be superintended by Europeans?

Answers 8th and 9th.

At present, the natives have certainly more reliance on the uprightness of European Judges than of Judges appointed from their own people. But this distinction is chiefly to be ascribed, I think, to the unequal footing on which the natives are placed in all official situations, compared with Europeans, and in none more than in the courts of justice. The remuneration of the native Judges consists of the institution fee, a miserable pittance, seldom amounting to more than £50 a-year, and sometimes to less than half that sum; yet, with few exceptions, I have found reason to be satisfied with the conduct of the Moonsifs and Commissioners, who were employed in the districts of Burdwan and Hooghly, where I held the offices of Judge and Magistrate for near six years; and in point of diligence and capacity for the trial of such causes as come before them, I believe that they are quite on a par with most of the European Judges. They get through more business, and in general I have found their proceedings fair and regular, and their decisions satisfactory. If pains were taken to select proper persons for the offices, and they received the tenth part of the salaries which are assigned to the European Judges, I have no doubt that their conduct would be so exemplary as to inspire the natives with confidence in their integrity. They should, certainly, be more liberally paid than they are at present: their powers might then, I think, be enlarged with safety, and I should see no objection to their being exclusively entrusted with the decision of causes for debt and arrears of revenue, and exactions, to a certain amount, say twenty rupees. But in other suits, and above

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twenty rupees, I think that, for some time at least, there should be appeals from the decisions of the Moonsifs and Commissioners to the Sudder Aumeens and the Registers, and from those of the Sudder Aumeens to the Judges.

10th Question.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

10th Answer.

I believe that the average scale of population, in each zillah of Bengal and Behar, may be computed at a million, or something more; and in those of Benares and the Ceded and Conquered Provinces at six or seven hundred thousand.

11th Question.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient; or do you think that it would be practicable and expedient to resort to any of the modes practised by the native Governments for maintaining the peace and order of the country?

11th Answer.

The state of the police, under the system established in 1793, has been very accurately and forcibly described in two papers written by Sir Henry Strachey and Mr. Stuart, which have been printed in the Appendix to the Fifth Report from the Select Committee of the House of Commons on the Affairs of the East-India Company, pages 538, 574, and 575. In consequence of the acknowledged deficiency of the system, various measures have at different times been resorted to for its improvement: particularly in the years 1809 and 1810, when the unexampled prevalence of gang robbery, in several districts near the presidency, induced the Government to take the immediate superintendence of the police into their own hands. At that time I held the office of Judge and Magistrate of Hooghly, and having thought some of the measures pursued by the Government very objectionable in their principle and tendency, and having been obliged to take cognizance of some serious abuses committed within my jurisdiction by certain agents of Mr. Blaquiere (one of the Justices of the Peace for Calcutta and Magistrate of the twenty-four Pergunnahs), who had been invested with the powers of Magistrate in the districts of Nuddea, Jessore, and Hooghly, I entered into a correspondence with the Government and the Nizamut Adawlut on these matters; and I had afterwards occasion to bring forward the whole of those discussions in a Memorial which I addressed to the Court of Directors from Benares, on the 27th of December, 1809, and to which I have endeavoured to draw the Court's attention, since my return to England, by a letter which I had the honour of addressing to the Court on the 30th of June, 1812. With this last letter I transmitted a copy of a report which I made to the Nizamut Adawlut, on the 18th of November, 1811, at the conclusion of two jail deliveries of the court of circuit for the division of Patna, on which I was employed just before I left Bengal, and which has not, I find, been sent home with any of the judicial dispatches from that presidency. To this report, and to the memorial above referred to, from paragraph 41 to paragraph 90, I beg leave to refer the Committee for all the information which I am able to furnish, from my own experience, on the subject of the police, in addition to what has been printed in the Report of the Select Committee of the House of Commons.

It appears that the crime of gang robbery was very much checked in the years 1809 and 1810, and that, in some districts, where it had prevailed most, and been attended with the most shocking outrages and cruelties, it was nearly suppressed. This important advantage was, I believe, to be ascribed partly to some judicious regulations which had recently been enacted, requiring the landholders, under certain pains and penalties, to afford their assistance in aid of the police, and in a greater degree, perhaps, to the increased activity and exertions of the Magistrates and the police officers, in consequence of the solicitude shewn by the Government to rid the country of dacoits. But the new vigour infused into the police was confessedly derived, chiefly, from the agency of Goyendahs, or spies, who are commonly the worst species of dacoits, and who frequently haunt the cutcherries of the Magistrates, merely for purposes of extortion or revenge. The Government of Bengal seems to have adopted an idea, that there could be no solid efficient system of police, of which espionage was

was not the basis (vide Appendix the Fifth Report of the Select Committee, page 615). Goyendahs were accordingly employed as authorized agents of the police, in Nuddea and the twenty-four Pergunnahs; and the former district having been so much infested by dacoits as to be almost in a state of anarchy and insurrection, afforded an ample field for their activity. Notorious dacoits were actually enlisted in the service of Mr. Blaquiere as Goyendahs, and the whole district of Nuddea became a prey to their rapine and oppressions (vide my Memorial, page 76). People of all descriptions were hunted down as dacoits, and the apprehension of people on suspicion, not the prevention of crimes, seemed to have become the primary object of the police. It appears to me that the employment of Goyendahs with the powers under which some of them acted, particularly those in the service of Mr. Blaquiere (vide Memorial, paragraphs 37 and 38), was calculated only to give a temporary check to gang robbery by a system of terror, such as the old native Governments would have enforced, by taking up hundreds of people on suspicion, and by hanging some scores of them, by way of example, without any form of trial. I do not, of course, mean to say, that the Bengal Government exactly followed this precedent of reform. But the measures which were adopted in Nuddea and the twenty-four Pergunnahs were certainly of that complexion, for they confounded the innocent with the guilty to an enormous extent. Many hundred persons were taken up almost at random, and kept in jail, from six months to a year and longer, without a trial, and even without an examination; and in Nuddea alone, upwards of forty of these persons perished during their confinement (vide Memorial, paragraphs 44, 45, 49, 50, and 51). I always thought that the check given to dacoity by these arbitrary and violent proceedings could not be of long duration; and having lately been to the India-House to examine the last judicial dispatches from Bengal, I found, from the first half yearly report of the Superintendent of Police for the past year (1812), that decoity had broke out again in several of the Bengal districts, namely, the twenty-four Pergunnahs, Hooghly, Mymensing, Rungpore, Dinagepore, and Purneah, and that in the two last districts it had risen to a very alarming height, and been attended, in numerous instances, with torture and murder. Probably the terror excited by the proceedings of the Goyendahs had in a great degree subsided; and the latitude with which those agents of police had been permitted to act, to the infinite prejudice and alarm of the honest part of the community, having been restrained within due bounds by some circular instructions formed for the guidance of the Magistrates by the Nizamut Adawlut, on the 23d of August, 1810, and the 18th of July, 1811, I suppose that they were no longer a match for the dacoits, and that the latter, after having concealed themselves for a time, had begun to emerge from their lurking places and to renew their depredations on the public. I am therefore afraid that no effectual remedy has yet been found for the suppression of dacoity, and that the state of the police, in every part of the country, still depends, almost as much as ever, on the personal character of the Magistrates, and on the efficacy of the superintendence and control which they exercise over the police officers, and the landholders and their agents, within their jurisdiction.

I know of no modes practised by the native Governments for maintaining the peace and order of the country, to which I should judge it expedient to resort, except that of making the Zemindars answerable, in a greater degree than they are at present, for the performance of that duty. A serious impediment has arisen to the establishment of an efficient police from the alienation of the service lands, which were formerly appropriated to the maintenance of a considerable number of petty police officers, but were resumed at the time of the permanent settlement, and formed part of the resources on which the public assessment was fixed. But this difficulty does not affect the principle for which I contend, though it certainly abridges the means of giving it effect. All the authority which exists in the interior of the country being derived from possession of land, I have no idea that there can be a vigilant and efficient police without the decided support of the landholders. By the engagements which they entered into for their estates, they were rendered exclusively answerable for the police; and the reasons which induced the Government to exonerate them from that charge, in the year 1793, having been since found inapplicable to the actual circumstances of the country, their services have been successively called for in aid of the police, by Regulation XII of 1807, Regulation

Regulation IX of 1808, and Regulation VI of 1810. These Regulations require the Zemindars to assist the police officers in the discharge of their duties, and to give information to the Magistrate of all robberies and other heinous offences committed within their estates. They are also rendered liable to severe penalties for harbouring dacoits and other public offenders; but they are not empowered to take measures, in the first instance, for the discovery and apprehension of all disturbers of the peace, and the Darogahs are apt to be jealous of their interference.

I am aware that many of the principal Zemindars, who purchased their estates at public sales, do not reside upon them; that some are by no means qualified, and that others would be unwilling to take any active part in the police. Some would, probably, be disposed to abuse the trust, and many would altogether neglect the duty: it is therefore desirable, that the Magistrate should have a direct communication with the subordinate agents employed in the collections, and with the Munduls or principal Ryots in each village, and be able to command their services on all occasions; and some plan might, perhaps, be devised for that purpose, without trenching on the rights which the Zemindars have acquired by the permanent settlement, and without creating any embarrassment in the collections. The service lands which have been alienated might be recovered, and some additional grants of land, perhaps, be obtained from the Zemindars for the support of a regular police establishment in each village. By these means, it strikes me that the police might be placed on a solid and respectable footing; and I am of opinion that, in all serious breaches of the peace, the landholders and their agents, down to the Munduls, or head man of each village, should, according to their several abilities, be encouraged and required to take immediate measures for the apprehension of the offenders, without waiting for orders; and that they should assemble the inhabitants of the village for that purpose, and report to the Magistrate, within a given time, the circumstances of the case, and the result of their inquiries and exertions. Even in the present reduced state of the landholders and the Munduls, they can, on most occasions, act with more vigour and effect than our petty establishments of police officers. They have still more influence and authority in the country, and the subordinate officers of police would more readily obey their orders. Nor do I see reason to apprehend that they would be guilty of any serious abuses in the exercise of the functions with which I propose to invest them. At all events, the Magistrates have ample power to punish instances of neglect and misconduct; and should they occur, I imagine that a few seasonable examples would soon put a stop to them.

Various other duties of detail might, I think, be confided to the Zemindars and their agents, and to the Munduls or principal Ryots in each village, and a few plain and simple rules might be laid down for their guidance. The police Darogahs would then be relieved from a good deal of business, which the extent of their jurisdictions, and the insufficiency of their establishments, render it impossible for them to perform properly themselves; and it might be expected that, by degrees, the people would learn to protect each other, and become more skilful and alert than they are at present, in the prevention and the detection of crimes.

It would conduce very much, I think, to the efficiency of the police, to render the situation of a Darogah more reputable than it is at present. With this view, when I was in the court of circuit for the division of Benares, I suggested that the offices of Darogah and Moonsiff should be united, and a salary annexed to them of sixty rupees a month.

In some districts there have been so many Moonsiffs and Commissioners, that their regular emoluments have not afforded them a decent subsistence, and, of course, the offices have been ill filled, and many mal-practices resorted to. While I was at Burdwan and Hooghly, I found it necessary to put those officers on a better footing, by reducing their number and increasing their jurisdiction, by which means I obtained the services of men of character, with whose assiduity and good conduct I had every reason to be satisfied. The union of the offices of police Darogah and Moonsiff would more effectually secure this object, and at the same time be productive of other advantages. At present, these two officers sometimes enter into a sort of rivalry, and interfere with each other,

other, and it is a common practice of the natives to worry each other by alternate complaints to the two authorities. If the same person held both offices these perverse proceedings would be checked, and the authority of the Darogah would be more efficient and more respected: the internal administration would also be simplified, and the powers of the native Darogah and Moonsiff would be rendered analogous to those of the European Judge and Magistrate, under whom he acted. It would be no small advantage, too, I think, to reduce to one half the number of native officers who are employed at a distance from the station of the Magistrate, under his superintendence and controul; they would then be more carefully selected. Respectable landholders, and other inhabitants of the district, would probably become candidates for the appointment, and the Magistrate would be able to inform himself more accurately of the real character and proceedings of the persons, on whose exertions the peace and good order of every district, and the welfare of the inhabitants, so essentially depend.

As it appears to me of importance to the success of an arrangement of this kind that it should be adopted on a principle of confidence, and not of a systematic distrust of the natives, I would allow the Darogah and Moonsiff to nominate their own officers, holding them strictly responsible for the appointment of proper persons.

12th Question.

Can you state what the limits and superficial contents were of the districts in which you acted?

12th Answer.

I cannot attempt to answer this question with precision. I was chiefly employed as Judge and Magistrate in Burdwan and Hooghly. The former district is, I think, from sixty to eighty miles in length, and forty to fifty in breadth; the latter (Hooghly), which is more irregular in its form, from forty to sixty miles long, and from twenty to forty broad. The superficial contents of Burdwan may be about three thousand square miles, and those of Hooghly about two thousand.

13th Question.

Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit, and submit to the decision of the punchayet; or has the punchayet, at any time, or on any occasion, been recognized by the courts of Adawlut, or the English Government?

13th Answer.

In matters of account, the courts of Adawlut frequently recommend to parties to submit their disputes to arbitration, and they always readily acquiesce in any proposal of this kind from the parties: but in such cases the courts have not contemplated any particular tribunal called punchayet, the existence of which is altogether unknown to me, but have merely referred the questions in dispute to one or more persons, as might be most satisfactory to the parties. On these occasions the suit is not withdrawn, but the decisions of the court are commonly founded on the reports of the arbitrators or referees.

(Signed) T. H. ERNST.

Albany, Piccadilly,
16th December 1813.

S. DAVIS, ESQ^r.

It is understood that the Court of Directors have determined to take into consideration the state of the internal government of British India, with a view to remedy any defects in the present system, and to reduce the expense.

It must appear that the natives of British India are entitled to good government, whatever may be the expense attending it. We have moulded the system of finance, of judicature, and of police, at our pleasure, and have experienced their perfect submission under every change. Though certain measures bore hard upon the higher classes, and though they were excluded

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from all offices of high trust and emolument, no clamours or expressions of discontent have been heard. This may have been less owing to their insensibility or indifference than to their habits, formed under an absolute government, which induces submission until the grievance approaches the extreme point. With the few of them who reason at all on the subject, it may be ascribed to their having distinctly perceived the general policy of the British Government to be dictated by humane and liberal motives, and pursued with unceasing endeavours for their general welfare, and that the errors committed have proceeded mo e from a want of knowledge and experience, than from any other cause. The want of knowledge, founded on local experience, was conspicuous in Lord Cornwallis, and to this may be justly ascribed the defects in the system established by his Lordship, which it is now become indispensable for the Court of Directors to inquire into and correct.

Lord Cornwallis went out to India under a persuasion that the landholders had been oppressed, and that their hardships arose principally from the changeable system of the internal government. His Lordship was surrounded by theorists, who might be thought to have caught the spirit of innovation at that time prevailing in Europe. The ill effect of bad administration was ascribed to the rules and laws administered, and an entire change in the machine was determined on, without any attempt to correct its movements. The most important of the changes introduced, and from which the others followed as matters of course, was that which invested the Zemindars with proprietary right in the land on assessments fixed in perpetuity. The nature of their tenure had been a subject of discussion, until the contest was decided upon the principle of expediency. It was determined, that if not already, by the constitution of the former Government, proprietors of the soil, they ought to be made so, and the amount of the revenue, or land-tax, limited and fixed in perpetuity.* This alteration which placed the Zemindar, as nearly as could be done, on a footing with a British freeholder, was followed by an abolition of those checks which appeared to be necessary only while he acted as collector of the revenue. The Canongoes lost their land and their offices; those ancient functionaries, the Chowderies, Moccidums, and Mundulls, with the whole economy of an Hindoo village community, or such remnants of it as had survived the Mahomedan rule, was left at the discretion of the Zemindar; and a host of Paicks, who had held service lands, were deprived of that maintenance by an order of the Government, and left to shift for themselves.† Innovations of this nature would have been dangerous to the state in other countries, but they were submitted to in India without any public disturbance

These arrangements, and the municipal rules founded on them, have now been more than twenty years in operation, and a competent judgment, it is presumed, may be formed of that policy which has extended them to the territories subsequently acquired. On their effects in Bengal different opinions appear to be entertained. Those who think most favourably of Lord Cornwallis's system, see in the increased population, cultivation, and internal commerce which has certainly occurred, what they deny could have been experienced under the former regulations of the Government: they even deny the possibility of such effects being produced under what is understood to have been either the Mahomedan or the Hindoo systems of Government.

To so unfounded a prejudice it might be sufficient to oppose the evidence arising from the vestiges of public works of ornament and use abounding throughout India, some of which rival the stupendous labours of the ancient world, and could have been effected only under tranquil and prosperous governments; but on this point I am happy to be supported by the opinion of the Sanscrit Professor at the Oriental College, whose acquaintance with the history and literature of India gives peculiar weight to his sentiments on this subject

* Extract from Lord Cornwallis's Minute of the 18th September, 1789.—"I am also convinced, that failing the claim of proprietary right of the Zemindary, it would be necessary for "the public good to grant a right of property in the soil to them, or to persons of other descriptions. I think it unnecessary to enter into any discussion of the grounds upon which their "right appears to be founded."

† It is well known that Sir John Shore (now Lord Teignmouth) objected to the settlement being made perpetual. See his minutes of dissent, on the Fourth Report of the Select Committee.

ject. His words are these: "I hope I shall not appear inconsistent, if I "here state my conviction that, at the time of the Mahomedan invasion, "Hindostan had reached a higher degree of order, riches, and population, "than it has since attained." Again he says: "I beg it may not be imagined "that I in any degree entertain the opinion, that Bengal was misgoverned "until the English obtained possession of it. The high state of prosperity "in which they found it, would, to every unprejudiced mind, sufficiently repel "so gross a calumny." For my own part, I not only agree with Mr. Hamilton in regard to the effects which have been produced under former Governments, but perhaps go farther than he does, in thinking the system under which those effects were produced to be still the system best adapted to the genius and condition of the people, and that our deviations from it have been attended with inconveniences to the Government and evils to the people, which go far to countervail any good to either, that can be ascribed exclusively to the change.

The objection most insisted on against the native system, is the check to industry that arose from the share taken by the Government in the produce from extended cultivation, and the revenue received in kind by a division of the crop; and it must be acknowledged that integrity in the officers employed, or a vigilant superintendence of them, was indispensable to a just administration of such a system. It may, on the other hand, be observed, that under that system, no individual concerned could be dispossessed of his land or deprived of his subsistence. If crops were abundant, the advantage was mutual between the cultivator, the Government, and its officers; if scanty, each party bore a share of the hardship. The rent or the Government share on the land cultivated was already as fixed as any ordinance could make it, and in perpetuity; the proprietary right if it resided any where consistently with our definition of the thing, resided with the cultivator who best deserved it, or with the Mundul or Malik, who first established the village in which the land was situated No Zemindar, Moccidum, or others of the divers classes dependent on the state, could be exposed to ruin, while their services were duly rendered under an equitable administration of the Government. It remained for the British Government, in the progress of its reforms, to ruin most of the ancient families of high distinction,* and to dismiss the long-established classes abovementioned, from possessions which had descended to them from a period when perhaps the ancestors of their reformers, "were in the woods," but certainly from a period long antecedent to the discovery of that road by which Europeans now resort to India.†

It is the more remarkable and to be deplored, that this ruin of the Zemindars should have proceeded from views originally directed to a redress of their alleged grievances, and have immediately followed from measures conscientiously undertaken for their benefit. The object of the legislature was "to "enquire into the alleged grievances of the landholders (represented to have "been dispossessed of the management of their lands), and to afford them "redress, and to establish permanent rules for the settlement and collection of "the revenue, and for the administration of justice, founded on the ancient "laws and long usages of the country." No one can doubt that Lord Cornwallis meant, by his new arrangements, to bestow upon the Zemindars, and the natives in general, the full measures of the benefits intended for them; nor is there any room for the least imputation on the integrity of those by whose counsels he was influenced in the prosecution of his benevolent views. But his Lordship had no experience of the people: it was impossible for him to become acquainted with them. The same, or little short of it, might be said of some of his Lordship's advisers; for time spent in India does not confer a knowledge of the people and their concerns, unless it be spent in particular situations, where that knowledge is to be acquired. The field of inquiry, too, in Bengal, was disadvantageous; for in that part of India the innovations

* I do not object to the Zemindars being considered recent in the state (as some consider them) and no part of the ancient system of Shudorsam; but when once adopted by the British Parliament, and their interests so warmly espoused by Lord Cornwallis, it might have been expected that those interests would have been better guarded than they proved to be by the Regulations his Lordship introduced.

† On the fallen condition of the very ancient family in Biskenpore, see a letter from the Collector of Burdwan to the Board of Revenue, 12th February 1794.

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innovations of the Mahomedans, and the frequent changes of the Government, had introduced a state of things, wherein little of system or regularity could be found. The respectable authority of Sir John Shore (now Lord Teignmouth) represented the accounts and detail of the land revenue in Bengal as a labyrinth, where no system could be discovered, no uniformity could be traced. Enough, however, remained to have suggested further inquiries, which if prosecuted, would have shown that something better had subsisted in former times. Subsequent inquiries, particularly in the Carnatic and on the western side of the Peninsula, have shown that a regular scheme of internal administration has from ancient times existed, and does still exist, under which property is attainable, and protection afforded to it when attained; and not a doubt can now remain, that it is the same system under which the country arrived at the high degree of prosperity and opulence, alluded to by Mr. Hamilton. Had the same information been possessed by Lord Cornwallis, it is not unlikely that his Lordship would have been influenced by it, and have conformed, more strictly than he did, to the instructions he carried out, by accommodating his institutions to the " subsisting manners and usages of the people, rather than by any abstract theories, " drawn from other countries or applicable to a different state of things." Instead of conforming to these views of the Court of Directors, it must appear that most of the enactments of the code of 1793 are theoretically founded on European notions, and wholly adverse to the practice and feelings of the natives of India: but more especially to such of them as have been designated, I will not say how correctly, as " the princes, the great lords, the numerous " nobility and gentry, freeholders, religious communities and public functionaries."* Most of the classes meant in this quotation have in the operation among them of the code in question, experienced more and greater calamities, than it is probable their ancestors ever did, amid the vicissitudes arising from conquest and despotic sway. Their lands are sold, their offices abolished, their followers and dependents dispersed, all reverence for them has ceased with their power and influence, and no means exist whereby they might attain to any portion of their former rank and opulence. They are shut out from offices of confidence and dignity, and their descendants, however high may have been their birth or caste, must now mix with the lowest ranks of the community, or perish through want. To the great Zemindars almost without exception, and to a large portion of the lesser ones, the gift of proprietary right in the land, combined with the Regulations under which it was to be enjoyed, has proved a Pandora's box, full of evil consequences to them and working ultimately their utter ruin. The theoretical enactments which accompanied this great measure and were consequent to it, have proved equally fatal to the class composed of the officers of the state. The Moccidums, or heads of villages, except where there was no Zemindar, were reduced to the condition of mere cultivators: the Canongoes, wish their Gomastahs, or agents, were dismissed: the Chowderies, of which every class of tradesmen or mechanics had one at their head, were no longer recognized as possessing authority; the Zemindary servants employed in the police, a very numerous body, were dismissed, and their lands resumed.

But it may be asked, has no benefit attended the system introduced by Lord Cornwallis, the enlightened policy of whose government, and the wisdom of whose enactments, have been the continual theme of eulogy, abroad and at home, for twenty years past, to such a degree, that it might be considered, and probably was considered by many, as a bar to promotion not to join in it? To this I answer, that many and great benefits have attended Lord Cornwallis's administration, and much evil has been removed by some of his enactments. The European servants of the Company, instead of depending on native assistance, soon found it indispensable that they should qualify themselves for their situations, and learn to transact the business of their offices themselves: and thus it was that the European part of the service acquired tone of diligence, integrity and zeal, which might be taken as exemplary among nations, and which, it is earnestly hoped, may be long preserved. By the institution of Courts of Circuit, a periodial review has been established of the state of the districts, which effectually prevents the existence of any great or

* The late Mr. Burke.

or durable oppression on the people. The amount of the land revenue, which on his Lordship's recommendation the Directors were satisfied to demand, is now collected without violence, under permanent rules, with a degree of punctuality never before experienced. The population has increased, the agriculture has extended, and the internal commerce has augmented. These are incontestable proofs of a steady, and I may add, of a good government; but it by no means follows, that the internal government has been as good as it might, and ought to have been. Extension of cultivation and increase of population would take place in India under any settled government, not absolutely vicious and destructive of its object; and we have the testimony of Mr. Shore (now Lord Teignmouth) to the increase of agriculture under many disadvantages, between the years 1770 and 1789.* But admitting it to have ensued from the permanency of the settlement alone, as some would have it to be understood, the following inconvenience to the Government must be allowed to result from that mode of disposing of the land. It locks up, beyond a fixed amount, that source of revenue which alone in India is available to any considerable extent, and as exigencies arise, compels the Government either to violate the public faith or endanger the public tranquillity by new taxes, which have not yet, and probably never will be, productive in India to any considerable extent. It is not credible that Lord Cornwallis could propose to limit and fix the income and the expenditure of the Government with the permanency that he did the land revenue; for this would be to introduce a principle of finance, unauthorised by the experience of any age or country. It is more probable, that his Lordship did expect that the Government would always find reasonable and practicable means of participating in the riches of the people. But though the advocates of the permanent settlement insist on the fact of the people growing rich under it, none of them yet have pointed out the means by which, to relieve the exigencies of the state, a participation in those riches may be safely obtained.† On trial it appeared, that the police-tax to be levied by native assessors, was very soon relinquished The attempts to augment the revenue by means of a house-tax have failed; and the Regulation for a tax on grain has been rescinded, without its producing any thing but distress and disgust among the people.‡ The Bengal salt-monopoly could not be extended to Benares, nor a new monopoly of the same article be introduced into the Ceded and Conquered Countries under that Presidency, though very earnest endeavours were used for those purposes. The salt and opium monopolies are old and valuable branches of the revenue, and if they have not reached the maximum of their produce in Bengal, any further augmentation of it is manifestly precarious, and cannot be relied on to meet a further increase of charge. In fact, the produce of the sales of those two articles in Bengal has lately declined, to an extent which has been attended with inconvenience and disappointment to the Government. The duty on stamped paper has succeeded, owing, it may be presumed, to the exercise left for free choice in those who incur it; but any new impost, as in the cases above stated of the house-tax, police-tax, and duty on grain, never fails to alarm and disgust the natives of India, who endure with more patience grievances of long standing than they do new ones, though of less pressure. In one they think they see the extent of the evil; in the other they know not to what lengths it may be carried, and generally anticipate, in their apprehensions, much more than is meant to be imposed.

After what has been said, it may appear no unreasonable presumption to assume, that were Lord Cornwallis to commence his career in India anew, he probably would pause on the question of a perpetual settlement of the land revenue; at least until some more practicable means should be discovered for relieving

* "I am, from my own observations, as far it has extended, authorized to affirm, that since "the year 1770 cultivation has progressively increased, under all the disadvantages of a variable "assessment and personal charges"—Minute, 18th September 1789,

† One of Lord Cornwallis's advisers (Mr. Law), did propose to qualify the perpetuity of the settlement, by the introduction of a clause to render the proprietors of mockurrery settlements subject to a proportion of a general addition to be made to their assessment, when required by the exigencies of Government; but this was of course rejected, as subversive of the principle on which the settlement proceeded.- See Mr Shore's Minute, 8th December, 7789.

‡ See B. Bayley's letter from Burdwan, and the respectful, though strong remonstrance from the Court of Appeal at Dacca against the tax in question.

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relieving the exigencies of the Government, by a participation in the increasing wealth of the people, than at present are known to exist.

The native Governments are known to have relied on the produce of the land as the principal, and might almost say the only source of their revenue; and it is evident, from recent experience, that the East-India Companys' governments must do the same. A great choice is now to be made, whether the perpetual settlement of the land revenue shall be extended to the Ceded and Conquered Countries, or whether it shall be indefinitely postponed. Upon this question, the Commissioners sent purposely to prepare the way for such a settlement expressed themselves as follows. "The resources of the country "have not yet been brought forth. Upon the most moderate computation, "one-fourth of the arable land still remains uncultivated; and assuming the "gross annual jumma of the provinces at rupees 225,00,000, an asset of future "revenue, of not less than rupees 75,00,000 per annum, must be considered "to be relinquished by an immediate limitation of the public demand upon the "land." It may appear unaccountable, that the British Government of Hindostan should despair of drawing forth a portion of these assets, by the same rules which, administered in times past, made the country flourish. Is it because the European servants of the East-India Company are less honest, intelligent, active, and zealous, than the servants of the native Governments were, at the periods referred to? If native aid be wanted, it is still to be had, where, if duly rewarded, fidelity may be relied on. Were the trial to be made, with the support Lord Cornwallis experienced from home to his arrangements, and superintended abroad with the same vigilance, it could hardly fail of success. It is certain that the Bengal Government have seen the propriety of exempting the formerly productive, but now almost depopulated provinces of Scharunpore and Goruckpore, from a perpetual settlement under expectation of future improvement and higher revenue. The same reasons which induced these exemptions are applicable to every part of the acquired territory, in a greater or less degree. The natives do not call for such a settlement; on the contrary, the report of the Commissioners from the Ceded and Conquered Provinces represent them as rather averse to it. The natives, in fact, do not, nor ever did call for innovations: all they want is the rules they have always lived under justly administered. Upon the intended settlement in perpetuity, the Commissioners thus addressed the Government who sent them to introduce it. "With every previous disposition in favour of a permanent settlement, we "submit to your Lordship in Council our deliberate and unqualified opinion, "that the measure, considered with relation to the Conquered and Ceded "Provinces generally, is at this moment unseasonable, and that any prema-"ture attempt to introduce it must necessarily be attended with a material "sacrifice of the public resources, and may, in particular cases, prove inju-"rious to the parties themselves, whose prosperity is the chief object of the "measure to secure upon a durable foundation."* The late orders to the Revenue Department have, it may be hoped, allayed the ardour so long felt by the Governments abroad to conclude perpetual settlements; but nothing decisive has yet gone forth, as far as I am informed, on the judicial branch of the Government, or on the police. The same system, therefore, which has for twenty years been under trial in Bengal, and found wanting, has been extended to, and is now in progress in the newly acquired territories. It is, perhaps, to be regretted, that this should have been done without that previous inquiry and deliberate investigation, which could not fail to have discovered, and might have suggested the means of avoiding those errors which were committed in Bengal.

With respect to the judicial system in Bengal, it appears that, in attempting unattainable excellence, the Government fell short of the good that was within its reach. The revision of causes of small amount, and the formality of procedure in the different courts, were meant to afford a more correct adjudication than had ever been experienced of claims between litigants; but the spirit of litigation became stimulated by these measures, which, combined with a proclamation to be quoted in the sequel, produced an effect which would have stopped the machine, by the accumulation of business, had not expedients been from time to time applied to keep it going. These were found in the imposition

* Commissioners' Report, 13th April 1808, paragraph 230.

imposition of a deposit fee, in the limitation of appeals, in the extension of the powers of the subordinate officers deciding suits under the superintendence of the Judges, in the increased number of the native Commissioners, and in the appointment of Assistant Judges. Yet, after the modifications, abrogations, and re-enactments, which pervade the code of printed Regulations, from its promulgation in 1793 down to the latest period, means are still wanting to enable the courts to get through their business, and to prevent a portentous accumulation of causes on the file.

In the department of criminal justice, the expedients for enabling the Nizamut and Circuit Courts to get through their business have been as various as those alluded to in the civil department, and their success has been as incomplete. The state of those courts, by the latest accounts, appears more urgently than ever to require relief, while the remedy to be applied has not been obvious.

The experience which has thus been had of the insufficiency of the courts of justice in Bengal, indicates that there must have been something wrong in their original institution, and very powerfully suggests the expediency of a modification in those established in the provinces recently acquired in other parts of India.

It is presumable, that in parts where the Hindoo institutions have been least subverted, as in the Carnatic and on the western side of the peninsula, the ancient modes of jurisprudence might be resorted to with advantage both to Government and the people. The Hindoos are there in a greater proportion to the whole population than in the other parts of the Company's possessions; and however preferable may be deemed the agency of European intelligence and integrity, the disparity of numbers must there, as it does every where else, necessarily throw the executive business of the state chiefly into the hands of the natives. The question, therefore, in this case seems to be, whether it would not be more convenient and advantageous to the inhabitants, to have their petty grievances and disputes referred to the adjustment of their associates, in their accustomed modes and in their own villages, rather than to be subjected to the administration of a stranger, chosen as the native Commissioners in Bengal commonly are, the distance of whose residence, and whose forms of proceeding, would often amount to a denial of justice. In one case, there is a provision formed on European notions, perfect in principle, but inapplicable and insufficient in practice: in the other there is a practice, with which the natives, attached as they are to their peculiar usages, are more acquainted, are better satisfied, and which, with less expense to the Government, would be found more effectual in accomplishing the object proposed. The settlement of causes of great amount, and the trial and punishment of great offences, might still be confined to European investigation and authority; but small suits, whether of a civil or criminal description, might safely be left to the decision of the natives themselves.

The police of the country is an object of the greatest importance; and here, in particular, the failure of the system in Bengal should be a warning to the Governments of the three Presidencies in settling their new acquisitions.

In Bengal the exclusion of the Zemindars, and the dismissal of a large part of their establishments, have been followed by the disorders described in the late dispatches from that Government. The endeavours of the Government to recal the Zemindary aid, and to bring things back towards their former condition, have been unavailing; and it is still doubtful how far the latest expedients have answered, or what course can best be pursued for securing the inhabitants from depredations, as horrible as perhaps ever were heard of under any government.

The bad character which is generally given of native administrations appears to be unfounded, or to admit of some exceptions. On our acquisition of Cuttack, there did not appear to be a want of new institutions for the dispensation of civil justice, and the police was found in a state greatly superior to what it was in our own provinces. These facts appear in the report of the Judges of Circuit, who found in Cuttack little or nothing to do. The introduction which has been made of the Darogah system, with the other enactments

S. Davis, Esq.

ments of the Bengal code, are not likely to increase the happiness, or to secure the tranquillity of the natives of Cuttack.

But though the native institutions and practice might, to a certain extent, be preserved in the Carnatic, and perhaps in the rest of the recent acquisitions of territory under the three Presidencies, it may be doubted how far it would be advisable to disturb materially the new system in Bengal. In Bengal the new system may be said to have taken root: the natives are becoming accustomed to it, the calamities which attended its introduction are partly over, and what relates to the land revenue has taken a settled form. The judicial department may be susceptible of improvement, and the police may be rendered efficient, without reversing entirely those new modes of procedure to which the natives are becoming habituated.

I doubt the practicability of any material reduction in the expense of the municipal institutions in Bengal, consistently with the idea of good government; but I think those institutions might be rendered more efficient than they are at present.

The first and most essential step towards the desired improvement would be, to commit the charge of the police to the Collectors of the land revenue, with a recurrence to the zemindarry aid, as far as it may still be attainable, on the principles, and by the rules, where they apply, as established by Lord Cornwallis, under date 27th of June 1787. A modification of those rules would be necessary, in consequence of the perpetual settlement of the land revenue, and the very numerous separations of talooks from the zemindarries to which they were formerly attached; but wherever the responsibility of the Zemindar for the security of the peace can be obtained, it should be accepted, and the former charge of the police, under the superintendence of the Collector as Magistrate, should be restored to him. In certain situations, the Darogah might still be employed; but the Tehsildar would be a more efficient officer, and should supercede the employment of the Darogah in all practicable cases.

The objections urged by Lord Cornwallis to the Collectors' having charge of the police no longer exist: the permanency of the settlement, and the regularity with which the land revenue is now collected, obviate those objections. No theoretical prejudice should be allowed to stand in the way of an alteration, which besides invigorating the police, would be attended with essential advantage to the administration of civil and criminal justice. The zillah Judge, relieved from the police, which at present leaves him little time to bestow on the exercise of his other functions, might have his powers enlarged, both in the civil and criminal department. In the latter he might, in concert with the native law officers, decide on all crimes short of those punishable with perpetual imprisonment or death. This arrangement would expedite the criminal trials. Abundant evils flow from the present mode of commitment for the next jail delivery. Speedy justice, so necessary in India, cannot be had. months elapse before the trial, when the same set of witnesses are to be summoned, maintained at the public expense, and kept from their business in attendance on the court a second time. The interval furnishes time for the practice of every species of atrocity that can be devised, for the conviction of the innocent or the acquittal of the guilty.

By making over to the zillah Judge so large a proportion as this would do of the criminal trials, the Judges of the present courts of circuit would be so far relieved, as to admit of a reduction of their number at each station. Two, instead of three and four, as at present, it may be presumed, would be ample for the transaction of the business that would be brought before them. The saving thus attainable would be more than sufficient as a fund for the erection of a separate court of Nizamut Adawlut, instead of the one combined, as it is at present, with the Sudder Dewanny Adawlut. The present union of the two renders the necessary dispatch of business in either impracticable. A late return represented one hundred and seventy causes in arrear before the Nizamut Adawlut. These were to be revised, and final judgment obtained, before the prisoners under sentence could be apprized of their fate: in the mean time, the proceeding on more trials would be accumulating, and the business of the civil court be almost at a stand. In this there appears to be an evil which calls imperatively for remedy, whatever may be the expense of supplying it.

Adverting

Adverting to the great extent of territory now subject to the Bengal presidency, the unremitting attention of one set of Judges may not appear more than sufficient for the revision of proceedings in criminal trials, and to confirm or pass sentence in capital cases.

At the five principal cities (Calcutta, Moorshedabad, Dacca, Patna, and Benares) it might be necessary, as it was in 1786, to continue the functions of Judge and Magistrate in the same person, but with powers enlarged, as proposed for the zillah Judges. His Register, or head assistant, might afford him every requisite aid in the police department.

With respect to the great mass of civil suits of small amount, which are brought before the native Commissioners, I am not aware of any other means, at present, for their better or more speedy decision, than by augmenting the number of Commissioners, and by a more careful selection of them than is usually made. It may be thought extraordinary, that causes of this description should have attained their present unwieldy number, when so few appeared on the files of the former Adawluts. The explanation will not be difficult to those who have mixed with the natives in the provinces. Though the heads of villages do not, in Bengal, hold the rank they do in the Carnatic, where there are no Zemindars, they nevertheless retain some respect from the inhabitants Each trade and profession also had its Sirdar, Chowdery, or Mangy (Mahagee), and each class of Hindoos its Pramanic, each individual his Gooroo. To these petty authorities numerous complaints were carried, and would have continued to be carried, to the great relief of the courts of justice, had it not been for the proclamation which, conformably to the new system, was made through the provinces, by orders to the Board of Revenue of the 30th July 1790, "prohibiting all landholders and other persons, not vested with due authority for "that purpose on the part of Government, from taking cognizance of causes "coming within the jurisdiction of the courts of Dewanny or Foujdarry Adawlut, under pain of being liable to such fine as Government might think proper "to impose." This order, of course, sent to the courts of justice a multitude of petty disputes exclusive of what related to the land revenue, which before had found adjustment with brevity, free of expense to the state, and probably with as much satisfaction to the parties concerned, as they now derive from the decisions of the Commissioners constituted by the Government.

Notwithstanding this publication, it is well known that on questions concerning caste, the punchayets have continued their practice, unrestrained by the new courts of justice, and the new code does not appear to have altogether destroyed the influence of the heads of communities above-mentioned. With respect to the Chowderies, they are likely to regain their former authority, the Government having lately circulated queries on the propriety of restoring them to the exercise of their former functions.

Instead of destroying, it should be the object of the Government to uphold and improve these associations. They promote order in the community, and materially assist the administration of civil and criminal justice. Though no longer recognized by the Government, recourse was continually had to them, on emergent occasions, for the public service. Without the assistance of the Chowdery of the hacheries, the Mangee of the boats, the Sirdar of the bearers, and others of similar influence, it would often have been impracticable to set detachments of the troops in motion.

Could the community be restored to the state it was in prior to the establishment of the new code of Regulations, it might be a question whether a modification of some of the authorities above named might not be used for the administration of justice, in cases of small importance; but I despair of its being found as practicable in Bengal as in the Carnatic, where the gradations of authority and respectful submission are better preserved.

I have now, to the best of my judgment, explained wherein, as it appears to me, the present system of internal government is defective, and what steps should be taken to remedy those defects. As to the question of expense, I think much might be done to reduce it, or to keep it on a moderate scale, in the new provinces and in the Carnatic, but any considerable reduction in Bengal could only be effected by a further recurrence to the former state of things,

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Answers to Court's Queries. S. Davis, Esq.

than it might at this time be prudent to resolve on, or than perhaps might be practicable, under the perpetual settlement of the land revenue. Efficient government, and in particular a good police, I apprehend to be the primary object; and this obtained, reduction of expense may be the next thing attended to. The present system has, in reality, a tendency to increase expence; and this must continue to be the case, while it is an object to employ Europeans as much as possible, and the natives as little as possible, in the executive part. Even the defects of the system have this tendency. A bad police gave rise to the provincial battalions,* now maintained at an expence of ten lacks of rupees per annum. It has increased the number of public crimes, producing trials where the expense incurred for the following purposes, namely, of maintaining persons apprehended on suspicion and detained for months before they can be examined, of witnesses before commitment and afterwards at the trial, and of prisoners before and after conviction, has enormously increased the contingent charges in the Nizamut department. The contingent charges in the Dewanny and Nizamut departments under Bengal, in 1811-1 12, amounted to rupees 826,000, and the whole charge of the police, including the provincial corps, to rupees 3,274,320. The chakran (or service) lands, which maintained a host of public servants for police and other purposes, being resumed, the wages of all public establishments becomes a money-charge upon the state. The perpetual settlement having disposed of all the waste land, there is none now to be had for the invalid sepoy establishment, for the erection of official buildings, for roads, or any other purposes, without purchase; and these circumstances, in their turn, contribute to swell the annual charges. A proof of this gradual augmentation of charge appears in some Bengal accounts which are now before me. The total charge of the judicial establishments in the old provinces of Bengal, Behar, Orissa, and Benares, for 1797-8, amounted to rupees 3,722,161. The same, for 1811-12, was rupees 4,240,908; showing an increase, not from any unusual occurrence, but chiefly in the ordinary contingent charges of rupees 518,747 in fourteen years, or augmenting yearly at the rate of more than 37,000 rupees, in those provinces alone.

Can these enormous expenses, fixed and contingent, scarcely known under any of the former systems of Government, and a large portion of which has been incurred in purchasing a worse police than we had before, be ascribed to any thing but a want of knowledge of the people and their circumstances, combined with a desire perfectly noble and generous, of improving both, but of so ardent a quality, that it has outstripped the means of effecting its own purposes?

(Signed) S. DAVIS.

28th December 1813.

R. W. COX, ESQ.

Answers to the Queries proposed by the Special Committee for Revenue and Judicial Affairs.

To the 1st *Query.*

Answers to Court's Queries. R. W. Cox, Esq.

THE fitness of the existing judicial system for the provinces lately annexed to Bengal by cession and conquest, may justly be doubted. In lieu of the prompt decision of the Aumil of the district or Tehsildar, from which there was no regular appeal, although, in cases of grievous wrong, the injured parties might attempt to make their case known to the Nawaub or Nazim, a series of regular courts has been introduced, guided by forms from which there is no authority to deviate, and which are little known to the bulk of the people.

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* For the origin of the provincial battalions, see a letter from the Collector of Burdwan, to the Board of Revenue, 7th April 1795.

It is true, that those forms are intended to secure the just rights of all parties before the court, and the succession of courts to guard the suitors against the ignorance or corruption of their Judges; yet it is scarcely to be expected, that the subjects of a despotic government, accustomed to obey implicitly the individual to whose superintendence they were intrusted, and in whom all authority centered, should justly appreciate an institution intended to secure equal rights to all classes.

The tributary chieftains and great Zemindars, who exercised all the rights of sovereignty, paying only a small peshcush, received with indignation a system intended to equalize them with the lowest Ryot; and the Ryots, accustomed to prefer verbal complaint, were harassed by the forms of the courts and the tardiness of their process. Thus, while the Government announced the intention to redress every evil, general dissatisfaction prevailed.

It also is evident, from the number of causes on the file in almost every zillah and city court in Bengal, Behar, and Benares, that the judicial system now established is inefficient.

To the 2d Query.

I conceive that, in some cases, it may be advantageous to aid the system introduced by the British Government by systems of ancient institution, viz the trial by punchayet, the authorizing Zemindars to settle disputes between their Ryots, and permitting the Cauzies of pergunnahs to decide civil suits.

To the 3d Query.

No remains of ancient Hindoo judicial institution now exist in Bengal proper. I conceive it to have been the express object of the existing judicial system in Bengal, to annihilate the ancient judicial system, and to reduce the Zemindars and their agents to mere Collectors of the land-tax.

During the Mahomedan government in Bengal, in the large Zemindarries, consisting of several pergunnahs, it was usual to have pergunnah cutcheries, and the Tehsildar of the pergunnah, who was the Zemindar's agent, decided in civil suits. Village Gomastahs, also, exercised the same authority, and recourse was frequently had to arbitration by their order. The Zemindars or their Dewans, also, decided civil suits, according to the ancient Hindoo custom.

In cities and large towns, and in each pergunnah, Cauzies were appointed who decided on civil suits. The Cauzies appear to have been the judicial officers on the part of the Nawaub; but the Zemindars never wholly gave up their ancient privilege, the right of interfering in civil suits.

Decision by punchayet is not now practised in Bengal in pecuniary concerns; in matters of caste it is still used. It is a trial by peers, a species of trial by jury. In each pergunnah, among the Hindoos, individuals of every calling and profession have a chief, a Sirdar or Paramanic. He is now, I think, elected by the voice of his fellows, and not noticed by the Government: under the native administration, he received a sunnud of office.

In case of an alleged violation of any of the rules of caste, the Sirdar of the pergunnah, with ten or twelve of the most intelligent persons of the same caste, assemble at the instigation of the accuser. The accused also attends, when each party nominates an equal number of judges The witnesses attend, and within two or three days judgment is given, by which the party deemed culpable is sentenced to entertain his judges, and all persons of the same caste in a given number of villages: sometimes a small fine in money is also levied.

The mode of trial by punchayet existed in the country conquered from Dowlut Rao Scindia, until the establishment of the British authority. The Zemindar of the village directed a certain number of intelligent Ryots or shopkeepers, as the case might require, to hear the matter in dispute, and to give judgment according to dherm, or good conscience. When in that country, I understood the decisions were generally satisfactory. The process was summary, the parties were heard *vivâ voce*, were neither compelled to employ vakeels nor to quit their habitations.

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The Sircar levied the chout, the per-centage of one-fourth, on the amount litigated.

It is to be observed, that the village Zemindar, or his agent, possessed nearly exclusive authority in the village. It is not very probable that Monsieur Perron, or the Tehsildar on his part, would have interfered, unless the village Zemindar or his agent attempted to enforce payment of a greater sum than was awarded. Complaint to the Zemindar of this agent's misconduct might have effected the agent's removal; for in cases of great exaction the Ryots would expel him from the village, and to prevent such insubordination was a great object with Monsieur Perron, who imposed a pecuniary fine on the Zemindar when resistance was provoked by his conduct.

To the 4th Query.

In Bengal proper, the existing system has now been established above twenty years. It is become, in some degree, familiar to the people; and I should deem it highly impolitic to annul it, unless there was a moral certainty that great benefit would result therefrom. All violent measures are to be deprecated. I am, however, of opinion, that the existing system may be ameliorated, by requiring the Judges of the several courts to refer to arbitration all suits for matters of unadjusted account, together with suits for castes, and suits regarding disputed boundaries or lands formed by alluvian. Such causes engross the time of the court in examining intricate accounts and numerous witnesses, sometimes on subjects in which natives are more conversant than Europeans, and would sooner unravel.

It also would, I think, be advisable to authorize the landholders, or their agents, to decide on money suits not exceeding thirty rupees, in all cases adverting to the character of the party. The sunnuds of office should be granted by the Judge and Magistrate of the district. In cases where it might be deemed inexpedient to vest such power in the hands of the Zemindar or his agents, recourse may be had to the Cauzy of the pergunnah.

Europeans are now so generally settled in the Lower Provinces for commercial purposes, that it would be necessary to exempt them from the jurisdiction of the zemindarry courts, should it be deemed expedient to have recourse to them. There is every reason to believe that the influx of Europeans will give ample employment to the Magistrates, and cause still greater delay in the decision of civil suits.

To the 5th Query.

The advantage of the present judicial system is, I conceive, that such causes as are heard and finally decided on, do undergo a thorough investigation, and that the great object of it is to insure substantial justice to the suitors, and to guard them against the prejudices, ignorance, or corruption of their judges, by affording, in very many instances, a rehearing before a different tribunal.

It is natural that a system of jurisprudence, established by the British Government, should not vest in British Judges arbitrary power: at the same time, it must be confessed, that the desire to administer justice chiefly through the medium of European agency, is the cause of little being effected, comparatively speaking; whether it is from a natural proneness to litigation, or in the hope that different individuals may form different opinions from the same depositions, or from reluctance to give up property in possession while it can be retained with advantage,* certain it is, that few individuals abide by the decision of the zillah court, in cases where the amount of suit authorizes an appeal.

The lower order of natives, accustomed to summary decision from their superiors, ignorant of the forms of regular courts, and of the Regulations by which their conduct is guided (the true construction of which is sometimes doubtful to the courts), attribute to indisposition towards them the delay naturally attendant on a regular succession of causes. Plaintiffs, defendants, and witnesses, surround the courts with clamour when a cause is first filed. Having expended their ready money and sold their cooking utensils, they return

* Twelve per cent. legal interest; from twenty-four to thirty-six in the interior of the country.

return home to labour, lamenting their losses, imputing them to the new system, without adverting to the general benefits it is intended to convey, or without being conscious that their misfortunes have proceeded from ignorance of the rules of the court.

To the 6th Query.

I am of opinion, that the system, in its chief parts, should be continued where it has been long established. In recent acquired territory, where it is prudent to conciliate, it is a question of political expediency; and although it may be desirable to reduce the influence of the powerful chieftains on the north-west frontier, it cannot be expedient to indispose them towards the British Government. Should any exemptions be granted in that quarter, there is no reason to suppose that such concessions will be imputed to the weakness of Government. Troops have too often enforced the decrees of the courts to warrant such a supposition.

In Bengal, Behar, and Benares, there are twenty-eight city and zillah courts. The population of those provinces is estimated at thirty millions. The number of courts cannot, I conceive, be reduced. I have understood that a larger establishment of Mohurs is necessary, and that, on some occasions, the courts adjourn at an early hour to enable the Mohurs to bring up the proceedings. The allowances to every description of officer are moderate. As Mofussil Peons serve summonses, some reduction may probably be effected in the Nazir's establishment; and as the English language is daily becoming more prevalent the allowances to English copyists may also probably bear reduction.

To the 7th Query.

I am not aware that the British Government obtains credit for an earnest desire to secure to its subjects their property and civil rights, the bulk of the people, probably, attribute the existing system to national custom, while a few of the more reflecting attribute it to the desire of augmenting European patronage.

From the delay that occurs ere a decree can be obtained, and the facility with which it can be suspended, it is to be apprehended that the bulk of the natives may systematically withhold payment of their just dues: while the higher classes will probably consult Vakeels and special pleaders, endeavour to discover the omissions of the law, and by them be instructed to evade the letter of it.

The want of an efficient judicial system must also, I conceive, tend to check the internal commerce of the country.

To the 8th Query.

I am not aware that the natives would confide more in the uprightness of Judges appointed from their own people than in European Judges. I have heard them bear testimony to the highest integrity and unceasing diligence in some of their European Judges, and assert the reverse of others. I conceive, however, that they view with jealousy all power and authority centering in Europeans, and that it would be highly gratifying to them to participate in it.

Judges appointed from the people would be more congenial to the natives, from similarity of language and customs; ofttimes from professing the same religion, and entertaining respect for the same laws and institutes. Hindoos, Mahajins, and all classes of people, spoke with approbation of Allee Ibrahim Khan, late Magistrate of Benares, who exercised the sole jurisdiction there

To the 9th Query.

I am of opinion that natives of integrity and diligence may be selected, and entrusted with a portion of the administration of justice. In the zemindarry or pergunnah courts, in which suits not exceeding thirty rupees are proposed to be cognizable, I recommend that the natives be not superintended by Europeans, and that only a monthly return of the number of causes decided be transmitted to the zillah judge.

I am aware, that one motive for depriving the landholders of all authority was to guard the Ryots against oppression and unauthorized demands. They

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never know what is payable by them, and would not, I think, fail to withhold payment and complain to the courts, should Zemindars entrusted with the administration of justice attempt exactions. The apprehension of being deprived of a situation so flattering to their desire of power, would, I think, generally secure good conduct on the part of the Zemindars.

To the 10th Query.

I am not acquainted with the average scale of population within the sphere of one zillah or city court. I estimate, generally, from 800,000 to 1,200,000 persons; somewhat lower, probably, in Sylhet, Backergunge, and the jungle mehals of Ramghur. The population of zillah Nuddea was ascertained by Mr. Redfearn, the magistrate, at the request of the late Sir William Jones, and zillah Purneah was also enumerated by Mr. Henry Colebrooke; but I have not the numbers of either district.

To the 11th Query.

Under the system of police now established in Bengal, dacoity has increased in the Lower Provinces, the Chackran lands are resumed, and the village Pykes and nightly watchmen discontinued by public authority, while the Darogah's establishments are inefficient. A most ample report on the state of the police was submitted to the Bengal Government by Mr. James Stuart, one of the judges of Circuit for the district of Benares, about the end of the year 1807, to which I beg leave to refer the Committee.

The system of police adopted by the natives was vigorous and efficient. It gave great power, which was no doubt often abused; but I think it is possible for Government to avail itself of the native system, without embracing all the evil which formerly attended on it.

It is true, that the revenue officers were in the habit of exacting unauthorized demands and oppressing the Ryots, it therefore was deemed necessary to deprive them of all authority whatever; in so much so, that they could not realize their just dues from the Ryots, and their lands were sold for arrears of the public revenue. I do not apprehend that vesting the Zemindars with a portion of criminal jurisdiction would give rise to the oppression which formerly existed.

The police of the jungle Mehals in Ramghur, Pachete, and Beerbhoom, was vested in the landholders, and the police of those districts greatly improved. The superintendence of the district was entrusted to Mr. William Blunt, who submitted a detailed report to Government of the advantages of the sytem, in 1808-9.

In most cases where dacoity is committed, the parties are intoxicated. Under the native Government drunkenness was nearly prevented; and since the battle of Plassey, the Zemindars of Nuddea and Mahomedshy would not allow a toddy tree to be tapped, or intoxicating drugs to be vended, in their several zillahs.

The abkarry system under the British Government, is too generally introduced throughout the country, and it is certainly more desirable to check than to extend it.

Should it be deemed expedient to have recourse to the native system, either civil or criminal, I should recommend that it be first introduced into one or more zillahs where it is most requisite, under the superintendence of Judges and Magistrates who entirely approve the system, and are anxious to establish that public benefit will result from the adoption of it.

To the 12th Query.

I have never had the honour to act as Judge and Magistrate in any district whatever; I have, however, submitted my sentiments, in obedience to the desire of the Committee, fully aware that it is much easier to point out existing defects than to suggest appropriate remedies, and apprehensive that I may have inaccurately stated some circumstances from memory. As, however, there are several most respectable and intelligent members of the Bengal civil service now in England, who have discharged the offices of Judge and Magistrate, I have no doubt but the Committee will obtain from them more satisfactory information on the several objects of their inquiry.

To

To the additional Query, submitted on the 23d October 1813.

Answers to Court's Queries.

R. W. Cox, Esq.

If the courts of Adawlut have recommended suits to be withdrawn, and submitted to the decision of the punchayet, I think it must have occurred at Benares, under the superintendence of the late Mr. Duncan, and in the Conquered Provinces, by the desire of Mr. Strachey, who I believe reported on the judicial system introduced, and contrasted it with the summary process to which the people were accustomed at Agra and its vicinity.

A reference to the Bengal Judicial Regulations will shew whether the punchayet has, at any time, been recognized by the English Government.

(Signed) R. W. COX.

J. WORDSWORTH, ESQ

Answer to Question 1st.

Answers to Court's Queries

J. Wordsworth, Esq.

The judicial administration established in Bengal at the time I quitted India, was not, in my opinion, so efficient as it might have been rendered.

2d. I do not think that any system of Hindoo institution could, with advantage, be substituted for the system introduced by the British Government.

3d. I feel myself incapable of answering this question, in so satisfactory a manner as the Committee might expect, or as I could wish.

4th. So far I think the system introduced by the British Government susceptible of improvement, that if two or more *zillah courts* were established in each district, instead of *one*, the decision of causes would be expedited, the access of the natives to justice rendered more easy, the proceedings less voluminous, and the expenses of suitors would, I conceive, be greatly abridged.

5th. That of proving satisfactory to the people; in so much so, that they *consider* their persons and property protected by it, *which* was far from being the case under their own arbitrary and oppressive government. I am not aware of any disadvantages attending the British judicial system.

6th. I do not think that the expences could well be diminished. To the contrary, I have given it as my opinion, in my answer to the fourth question, that the number of zillah courts ought to be *increased*, which if sanctioned by Government, the expences would consequently be greater. In respect to the allowances the native servants received, if they are the same now as they were when I left Bengal, I am well aware they will not admit of any reduction.

7th The British judicial system, in its operation, convinces the people that justice is expeditiously and impartially rendered them, which was not the case under their own Government

8th. I am certain the natives would confide more in the uprightness of European Judges than in Judges appointed from their own people.

9th. In the courts of Sudder Dewanny and Nizamut Adawlut, provincial courts of appeal and circuit, and zillah courts, Cauzies, Muftees, and Molovies and Pundits, sit as expounders of the Mahommedan and Hindoo laws, which I think is proper; but from the knowledge I acquired of the dispositions of the natives during thirty years residence in Bengal, I am decidedly of opinion that it would be unsafe to trust any of the natives with the administration of justice uncontrolled by European authority.

10th. I understand, from the last survey made since I left India, that the population of the zillah of Rungpore was ascertained to be two millions and a half.

11th. The system of police established by the British Government, since Mr. Hastings quitted Bengal, I always considered too lenient, particularly as far as regards the zemindars; a recurrence, therefore, to Mr. Hastings' system, would in my opinion be advisable

12th.

Answers to Court's Queries.
J. Wordsworth, Esq.

12. I am sorry I cannot; but on a reference to Rennel's maps, No. 5 (which I have not got,) I conceive the limits and superficial contents of the district of Rungpore may be ascertained.

SIR H. STRACHEY.

Answers to Court's Queries.
Sir H. Strachey.

1st Question.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established in Bengal, and the provinces depending on it?

Answer.

My opinion of the judicial administration established in Bengal and the provinces depending on it, is, on the whole, very favourable. To the system itself, the institution of the courts of justice, founded as they are upon the English model, and the rules by which they are guided, I see no material objection.

The forms are prescribed very fully in the Regulations, and observed with great exactness. The characteristics of these forms are precision and publicity; qualities most essential. The pleadings, the depositions of the witnesses, and the proceedings of the court, are all written in the native languages. Every thing is done in open court, and carefully recorded in writing. Habits of accuracy are acquired, and all that passes may be revised.

Of the fitness of this system and its general good effects, I cannot doubt. O its efficiency I propose to state my opinion in detail: at present I must reply, that the judicial system, as now existing, is not, I think, completely efficient. The plan, the principles, the intentions are good, but they have not been fully carried into execution. How far this opinion is just or not, can be ascertained, not by considering the general outline or plan of the institution of the courts, or by studying the Regulations passed for the guidance of those courts, but by a more minute inquiry into the condition of the people in India, and into the state of the business in the different courts, than it is possible to enter into here. I by no means admit that the system is ill adapted to the country. The inhabitants of Bengal are, at all events, now accustomed to it; and though, in prudence, I would avoid its hasty introduction in some provinces of recent acquisition, where the power and influence of native chiefs may be considerable, I cannot help wishing for its establishment even in such provinces, because I conceive that the body of the people must ultimately derive great benefit from it.

I more than once, while in India, took occasion to state my sentiments on the impolicy, and in some instances the injustice and inhumanity, of suddenly introducing the judicial system into particular districts or estates, where circumstances pointed out the propriety of forbearance. For our's is a system which deprives the leading men of the country of all their power and importance: it does, in fact, level and degrade them. When these men are provoked and insulted, they take up arms and defy the magistrate: then we call them rebellious, and employ a military force against them, and very dreadful scenes ensue. I have now reason to suspect, that nothing which took place in Bengal, on occasions of this kind, can equal the bloodshed and mischief which attended the reduction of certain chiefs at Madras and on the Malabar coast, at different periods, on our first attempts to introduce among them our system of government. I do not recollect that any orders or instructions, applicable to these cases, were issued in Bengal.

In reply to a subsequent question, I propose to enter more fully into the subject of the effects of our judicial system.

2d Question.

Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with ad-

Answer.

I am not, I fear, sufficiently acquainted with any system of ancient Hindoo institution, to judge of the expediency

vantage substituted for the system, or any part of the system, introduced by the British Government?

expediency or practicability of its being substituted, in whole or in part, for ours.

I must, I suppose, impute to this my imperfect acquaintance with the subject, the sentiment of surprise which, I confess, I entertain at the suggestion of substituting the ancient Hindoo institutions for our judicial system in Bengal.

To revive laws which have either been abolished or become obsolete, many centuries before we introduced our own changes, this, though perhaps practicable, would be a great innovation, and would, I firmly believe, be doing violence to the feelings of the natives themselves.

Question 3d.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decisions by punchayet?

Answer 3d.

I do not recollect any remains of ancient Hindoo judicial institution, not even the punchayet; but the term being well known in Bengal, it is probable that the thing exists in some parts of the Bengal provinces, and that it is occasionally resorted to voluntarily by the Hindoos, in disputes concerning caste, and perhaps in matters of village accounts and boundary disputes. I remember no instance of parties in a suit proposing a reference to the Punchayet Should the parties agree, no objection, I conceive, would be made to such reference. Our civil courts never discourage any kind of arbitration: they constantly recommend it to the parties, who will hardly ever agree to it

The Hindoo laws, known to us, are contained in the two books which are deposited in the Dewanny Adawlut, or civil court of every district in Bengal: the digest compiled by some Bramins and translated by Mr. Colebrooke, and the Hindoo institutes or ordinances of Menu, translated by Sir William Jones. There they lie, as ornaments, upon the table, but of little or no use. I have examined these books as matters of curiosity, but was not in the habit of consulting them, with a view to throw light upon a doubtful point, or to gather from them rules of practice. In truth, to my poor judgment they seem little more than a mass of priestcraft and folly.

How, then, it will be asked, do we administer the Hindoo law? We do not, strictly speaking, administer the Hindoo law in Bengal? In suits concerning caste, marriage, or inheritance, the parties sometimes appeal to the Hindoo law and demand a *bevusta,* or exposition from the pundit: then we consult the pundit, and if his opinion is a clear one and uncontradicted, which seldom happens, we found our decision upon it. The pundit is, I think, not very often consulted, even in cases of this kind, unless on the application of the party interested.

I speak of civil cases only. We know nothing, in practice, of Hindoo criminal law; but the general terms made use of in the last question seem to intimate, that it may be in contemplation to revive the Hindoo criminal law. In the southern parts of the peninsula there are probably some remains of Hindoo judicial institutions, and at Mysore, I understand, there is a Hindoo court of justice established by our Government. How far this Hindoo court of justice is subject to British superintendence or interference, I have not heard; nor can I conceive British Judges administering Hindoo criminal law, or permitting its administration under their superintendence. We should meet with most awkward difficulties. We should be liable, at every step, to deviate from the genuine spirit of Hindoo law, such as it is found in the ancient Hindoo religious books: we should be inclined to deal roughly with Bramins convicted of heinous crimes: we should be puzzled to conduct a trial by ordeal, of which there are various kinds described in the Hindoo books

If, then, we restore the Hindoo law, we shall, I suppose, commit the administration of it to the Hindoos. But even here is a difficulty. Among the Hindoos, not one man in a million knows any thing of his law books. The most terrible penalties are denounced against all but those of the highest caste, who presume to read those law books; neither are the few who do read the books, in my opinion, fit for the office of Judge. The Hindoos, in general, of our dominions, have learned more from us than from their own books; and though many of them are competent to administer law under our regulations, I conceive there

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are few who would not feel themselves at a loss, if they had no other guide than their books and ancient institutions.

On the expulsion of the Hindoo chief from Benares, about thirty years ago, it became necessary to provide for the administration of justice there. To this office (the office of administering justice to the Hindoos in their holy city), the Bengal Government thought proper to appoint a Mahomedan; and I have understood that the Mahomedan Judge of Benares gave general satisfaction to the people.

I can mention, from memory, a case or two, which perhaps may be considered as affording a specimen of ancient Hindoo judicial institution; but they did not occur within the limits of Bengal proper.

In the course of the Bareilly circuit (I forget at which station,) the following case came before me. Some villagers seized several men, accused them of theft, and conveyed information of what they had done to the Talookdar or petty chief in the neighbourhood, for his further directions. The Talookdar, knowing that theft had been prevalent in that quarter, and not heeding our new judicial system, or being partial to his ancient institutions, gave immediate orders for cutting off the heads of the supposed thieves. This was done, and the people concerned were brought in by our police officers to be tried for murder.

At Allahabad, I think, another instance occurred of a sort of village court. The members of that village court also were tried before me for murder. They were accused of putting a poor woman to death. In their defence they proved, that the deceased had been suspected, and on regular inquiry by them, had confessed herself guilty of bewitching certain children in the village; so they passed sentence upon her and killed her.

This sort of ancient judicial institution, or village court, or something analogous to it, may probably be found in most of those provinces of India where our system has not yet rooted it out.

In the jungles of Ramgur a case occurred, above twenty years ago, of five women being put to death for witchcraft, after a regular investigation by a village court. On that occassion, a special commission was appointed to inquire into the state of these village courts. I know nothing further of this affair, except that the village courts were found to exist among the most rude and barbarous tribes of the Jungles; that they consisted of an assembly, convened from far and near; that they tried and executed old women for sorcery, and that strict orders were issued for abolishing them.

I incline to think that, in most of these cases, the members of these village courts united in their own persons the characters of prosecutor, magistrate, judge, jury, and executioner.

An account of the Ramgur case is inserted in the Asiatic Researches, vol. iv. no. 22, where also may be found a few of the rules by which the village courts regulated their proceedings. These rules, however, seem to relate entirely to the different modes of proving the crime of witchcraft.

In the same article of the Asiatic Researches, and as connected with the subject now under consideration, is given an account of some other ancient Hindoo customs, which, in spite of our interference, occasionally prevail; such as sitting in *Durna*, the *Coor*, and the *Rajkooma* custom of killing their daughters.

I am sorry it is not in my power to furnish a more full and satisfactory account of the punchayet, the village courts, and other ancient Hindoo judicial institutions. I should imagine that, among the garrows or other barbarians of Bengal, they might still be found; but as civilization extends rapidly in that quarter, it is to be apprehended that we may unintentionally disturb some of those ancient institutions.

I spare myself the trouble of consulting Hindoo books for information on this subject, because I know the sort of information I should find in those books. It cannot interest the committee to learn that certain Hindoo gods or goddesses invented the punchayet ten million years ago.

Question 4th.

Question 4th.

If this system, introduced by the British Government, is in your opinion to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

Answer 4th.

I am of opinion, that the system adopted by the British Government is to be preferred; but that it is susceptible of improvement, by rendering the access to justice more easy. To effect this, I think the expense of prosecuting ought to be diminished, and the number of ellicient tribunals ought to be increased.

To abridge the expense of suitors, particularly of the Ryots, on their prosecuting for exaction of rent, would be easy; and I can suggest no greater improvement. If the forms could be simplified without sacrificing a greater advantage, the natives would be gainers; but I deprecate any alteration in the custom of recording scrupulously all proceedings, and taking the evidence at length, *verbatim*, in the native languages.

The best means of remedying the existing defects I conceive to be, the extension of the system. Let the original intention be followed up: let the number of tribunals be increased, till they equal the demand for justice: let the business be actually done. That this is desirable, will hardly be denied; but, first, it may be proper to shew, in a few words, that the present establishments are insufficient.

Very soon after the opening of the civil courts in 1793, they were filled with causes, though the XLth Regulation of that year, by instituting the courts of native Commissioners, took off about nine-tenths of the business. The Register's court was, I think, established on the following year, 1794, by Regulation VIII. Under that Regulation, the Register is employed as much, or more than the Judge himself, in deciding causes.

I am informed that, since I left India, two additional courts have been established at each station, under the superintendence of a Molovy and Pundit respectively. An excellent measure, in my opinion. These natives are among the few who are tolerably well paid by us; and, as law officers, they have very little to do.

The institution of fees was the chief means of preventing the filing of complaints faster than they could be brought to a hearing. In 1797, however, Regulation VI. enacts new fees and stamps.

Besides these Regulations, many others were passed, with a view to limit appeals. Assistant Judges have been appointed. The Sudder Court, which hitherto consisted of the members of the Supreme Council, was formed anew of three Judges, who had no other duty to perform, and no translations were required. This last was a great saving of time and labour. But, in spite of these and other measures directed to the same end, things have grown worse and worse, causes have continued to accumulate, the channels of justice are choaked, and the Judges are overwhelmed with business. The foujdary, or criminal department, must have the preference. In some districts, the Magistrate is obliged to devote so much time to the police, that the Dewanny Adawlut is necessarily neglected. The Sudder Court, strengthened as it is by two additional members, has of late years given very little attention to any but the criminal business, and even in that they have a heavy arrear; I believe, constantly above a hundred trials.

In short, the establishments are utterly inadequate in most districts of Bengal; and where the business is apparently kept up, it must be recollected that great numbers of poor Ryots are deterred from prosecuting by the expense and the delay, and sometimes by the distance of the courts from their residence.

In the enactment of some of these laws to which I have alluded, the Bengal Government proceeded upon the supposition of the great number of suits being caused entirely, or for the most part, by the spirit of litigation. This I have always thought a groundless supposition. And to check this spirit they imposed

imposed heavy taxes on prosecuting, thus defeating the main ends of our system, which ought to be the redress of oppressions suffered by the lower classes. The litigious spirit of the natives may be an evil; and is one cause, but not certainly the chief cause, of the number of law suits. It is but a small proportion of the suits that can be ascribed merely to the quarrelsome disposition of the prosecutor.

The remedy I propose for the defects I have stated, is the establishment of more courts, composed of natives, both Mahomedans and Hindoos, to be guided entirely by our Regulations. Let the native Judges be well paid, and they will do the duty well: of this I feel the strongest conviction. The expense would be little or nothing, as the fees might defray the whole; though it would be better to give the native Judges liberal salaries. There should, at all events, in causes for undue exactions of rent, be no fees on documents, no stamps, no expense, except the institution fee.

If the powers of the Moonsiffs were only extended to the decision of suits to the amount of two hundred rupees, (the limit of the Register's authority at present), the institution fee alone would, I conceive, form an ample fund for the payment of the native Judges and their Omlah. When I speak of a liberal salary for a native Judge, I would be understood to mean somewhat less than one-tenth of the salary of the European Judge.

It is my opinion, that all the judicial functions of Bengal might gradually be thrown into the hands of the natives, if such were the pleasure of the Company; and that the business would be as well conducted, under our Regulations, by the natives as by the Europeans, in some respects better, and at one-tenth of the expense.

It has been shewn, that the Judges have a great deal too much to do. The Collectors throughout Bengal are now mere receivers of a specific sum, which is paid with punctuality; they have certainly leisure, aud might afford assistance to the Judge in all those parts of the country where the amount of the land revenue is fixed. This would be merely making Assistant Judges of the Collectors. Their judicial functions would become the most important of their duties. It might be better, perhaps, to consolidate five or six collectorships into one: one Collector might suffice for each provincial division or jurisdiction of a court of appeal and circuit.

To transact one quarter of the judicial business by European agency is impossible. If all the Company's servants were employed in judicial offices, still the drudgery would fall upon the natives.

The advantages, in point of economy, of employing the natives is self-evident. The plan might be contracted or adopted to any extent. Suppose a proportion, for instance, of half of the subordinate offices in the judicial departments (I mean those of Register and Assistant) as they fall vacant, were to be filled with natives, with allowances of two or three hundred rupees a month to each, that is to say, less than half the present salaries and emoluments, it would soon be found that the natives are fit for the office of judge. We should have a respectable class of natives, who would, in some degree, assimilate with us, and would form a link of connexion between us and the body of the people.

5th Question.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer.

The advantages of our judicial system to the natives can best be appreciated, by considering what their condition would be without it, what their condition was before we introduced it.

There are, I think, certain peculiarities in the structure of society in India, which expose the people to oppression, and perhaps render more necessary than elsewhere the establishment of a tribunal, to which they may have access for the redress of their wrongs.

Much surprise will naturally be excited at the quantity of judicial business in Bengal, as described in my reply to the last question. Some account of the number of law suits depending and decided in the civil courts is given in the Fifth

Fifth Report of the Select Committee of the House of Commons, pages 63, 64, and 65, and Appendix, page 517. This, however, conveys an imperfect notion of the actual state of things. If there were twice as many courts, there might probably be twice as many causes; and if all obstacles of delay and expense in obtaining a hearing were done away, if the tribunals were really open to all, the number of suits brought forward would certainly, for a time at least, be very much augmented.

To account for this immense load of causes, it must be recollected that the population is very great: that of Bengal and its dependent provinces, probably, not less than forty millions. So much for the numbers: then as to the quality and composition of this great population. We know that the inhabitants of Bengal consider a law-suit as the remedy for every dispute which arises among them. They seldom resort to private arbitration. The differences of the people, if attended with the slightest injury to either party, generally end in a *naulish*, or complaint to the Judge. In vain we exhort them to any sort of arbitration: they are satisfied only with a decision of the court, which they look upon as a command from a master or sovereign. I may add, that they almost always appeal, when the cause is appealable, if they can pay the expense attending the prosecution of such appeal.

It must be admitted, that this litigious spirit, if such it is, has increased, and perhaps does still increase, under our system. It may be said, I think, to have been created by our system, and I stop not here to enquire whether it has done more good or harm. It prevails in some places more than in others. In some few districts the business may, I believe, be got through with the present establishments.

I would not be understood to say that the complaints and claims, or any considerable portion of them, brought forward in our courts, are created by us or our system, without any other original ground of action: it would be absurd to suppose so. The mass of grievance or oppression is at present surprisingly great; but is, in my opinion, diminished since the year 1793, although the population, the agriculture, and the internal commerce, have much increased since that period.

Difference of rank or caste produces numbers of law-suits, which though in appearance trivial, are often important and occupy much time. They generally come to the courts, for there are few persons of rank or consideration in the country to whom the natives have recourse for settling disputes of any kind.

Another cause of the accumulation of suits is to be found in the vast quantity and peculiar nature of the commercial business of Bengal. It is carried on by making advances or payments beforehand to the artisans or manufacturers, who stipulate to complete their work, for which they have received the price or a part of it: then they begin the work; unless, as frequently happens, they take the advances without any intention of fulfilling their engagements. An army of Peons is retained to stimulate the activity of the contracting artisan: he is perpetually subject to vexatious interference on the part of his employers, from whom he and his family derive their immediate subsistence. Thus the people are always in debt, and kept in poverty and dependence. They have long and intricate accounts to settle, and great numbers of disputes and law-suits are produced. Many of these people, too, besides their commercial dealings, have farming concerns, and frequently possess cattle and implements of husbandry.

Of the different descriptions of causes last mentioned, a sufficient number is decided to answer the main purposes of justice. I am not sure that the performance of contracts and payments of debts are even yet generally ensured in Bengal, but I conceive that no very great inconvenience arises from the delay and expense which occurs in the decision of these suits. Extreme inconvenience, hardship, and oppression, must have been suffered by the natives, till the period of the establishment of the courts; but it is probable that arbitration and compromises were then common. I speak of the period when there was scarcely any tribunal, except that of the Collector, who was chiefly occupied with the Revenue department.

The trade of Bengal has been, for the most part, in the hands of Europeans for half a century and longer.

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It was not till the courts, civil and criminal, had been some time established under their present form, and in full operation, that oppression committed by European traders was put an end to. Labourers and manufacturers, in the employment of the Company and of private European traders, were imprisoned and beaten and harassed by Peons.

This I conceive to have been the ancient custom of the country, and not invented by Europeans: but the agents of the Company had most power, and were, of course, the worst tyrants.

In the Salt department a shameless system of cheating and severity was universally practised. Many thousands of men were compelled to work, and allowed a most scanty subsistence. Some hundreds were pressed every year into this service. They were, in some instances, bound hand and foot, and sent off to the most unhealthy parts of the Sunderbunds, to manufacture salt for the Company's monopoly.

All these practices remained till the courts were established in 1793, and then it was soon discovered that they were wrong. They prevailed till that time: not that we had made laws to authorize them, but because the people seldom complained of them; because, if they have been in the habit of complaining, the Collector could not have heard the hundredth part of the complaints, and because these practices were comformable to the custom of the country.

Generally speaking, in the commercial transactions carried on by the Company and by Europeans out of the service, the natives were treated ill, though signal acts of cruelty would occasionally be punished by the Collector.

The decisions of the civil courts, and the sentences of the magistrate in petty foujdary cases, which last are speedy and efficacious, have produced, since 1793, a great change for the better in the condition of the lower orders of the commercial body; a change which, though not plainly visible now, is not to be doubted, which cost the company much money, and their servants much labour, but is well worth the greatest sacrifices.

It was not in the year 1793, that the powers of Collector, and those of Judge and Magistrate, were first separated and held by different persons in Bengal. The plan had been tried, I think, but partially, several years before, and given up: but till this period, the administration of justice, whether committed to the Collector or not, appeared to be a secondary affair. It occupied less time than the other duties of the Collector, and the collection of the revenue was still considered, according to the ancient characteristic usage of the country, as the primary object, the chief function of the internal Government.

It was not till this period that the Bengal Government, through the agency of its judicial servants, began seriously to attend to the welfare and protection of the numerous people subject to their dominion. But to redress all grievances, and hear all claims, was found to be a task beyond our power. The Judges and Registers were soon overloaded with suits, as I have mentioned.

I will not here dwell upon the claims, without end, to land of every description, or of talookdars to separation. I say nothing of the suits concerning rent-free land and the boundary disputes, which no labour can unravel. I proceed to mention, that the nature of the land tenures in Bengal gives rise to innumerable suits among the cultivators.

The mass of the population consists of Ryots, who are tenants, and hold the lands which they cultivate under engagements, verbal or written. These engagements are generally complicated.

There is often an implied engagement only, under which the Ryot is to hold, paying according to certain rates.

Forgeries, frauds, and intricacy of every kind, are found in the accounts. The Ryots possess many rights and privileges, and nothing, in my opinion, can effectually protect them from extortion but tribunals, to which they may have easy access.

The

The condition of the Ryots necessarily exposes them to extortion. They are always acknowledged to possess very considerable privileges, but they never did actually enjoy those privileges. Their engagements ought not to be violated, but except with us, and too often with us those engagements are violated. I mean violated by open barefaced force. By whatever means an unjust demand of rent is enforced, whether according to the old custom, by coercion and flogging, or to the new mode of distress by summary process and Mofussil auctions, we may call that act, for want of a stronger term, a robbery.

To protect the Ryots completely from this shocking oppression, this universal robbery, of the horrors of which, when under the worst form, no body in this quarter of the world can form an adequate conception, we ought to have tribunals always accessible, without trouble, without expense. This cannot be done; at least it never has been done, though we have done much: compromises therefore take place. But less and less cruelty is committed; and. comparatively, the Ryots under our government enjoy ease and happiness.

Perhaps in Bengal not many thousands of these robberies are committed in a year; and none of them are attended with extreme cruelty, very little beating even. But before our courts were established, the number of these robberies which took place every year was much greater, and they were often attended witn imprisonment and whipping.

So it is in all those eastern countries, where the rent of land is the great public resource. It is the kherauje, the tax. It is collected from the population, which is composed of cultivators. These cultivators are not, as their acknowledged rights and privileges import, substantial yeomen, but Ryots, exposed to oppression and cruelty, whipped and tortured, and robbed, considered to be well off when they get a bare subsistence, and are treated like cattle.

Hence it is, I presume, that these people, though in a degree civilized from remote antiquity, are, and ever were, bowed down in servitude most abject, that they appear not to possess within them the principle of progressive improvement, but remain for thousands of years stationary.

The eastern people have had wise Kings and just Judges. We have heard, no doubt, of particular acts of signal equity and of great skill in detecting injustice among them; but never had they a consistent uniform judicial system, a set of tribunals to which the people might resort, and without regard to the personal character of the judge or ruler, depend upon obtaining justice.

This great blessing may be said, with strict truth, to have been unknown in India, till conferred upon it by the English East-India Company.

Having endeavoured to explain the situation of the Ryots, I have to remark concerning the Zemindars (by which term I do not mean mere revenue officers, but hereditary proprietors of estates) that they exercised not only the usual rights of landlords over their tenants, but much more, for under the native system they were the rulers: the people knew no other government.

The whole scheme, the ultimate view of an eastern Government, is the collection of rent, which is seldom effected without extortion and robbery. The landholder is robbed by the sovereign, and the cultivator by the landholder. This oppression and insecurity of property are the result, not of bad laws, but of peculiar circumstances and despotic customs. The Mahomedan code, and probably all codes, forbid oppression, and inculcate benevolence and moderation. The human mind universally acknowledges the common maxims of justice.

The state of things in India till we changed it, I believe to have been nearly such as I have described: but under our judicial system many of the great Zemindars are ruined. It is said by some, that we created the Zemindars: it is known to all that we have destroyed most of them. They could not collect their rents as they used to do; they fell in arrear, and we sold their lands: they and their families are ruined. Better than this, they might have said, was that old system, under which we were subject to extortion like our Ryots, and were imprisoned and flogged by the Nabob's officers.

No

No doubt, the sale of the old zemindarries was in itself an event deeply to be deplored. It is impossible to contemplate the ruin of so many ancient families without pain: but this event appears not to have been foreseen or intended by the Government of Bengal. I do not pretend that we are wholly exempt from blame. We ought to have perceived the consequence of suddenly rescuing our subjects from the hands of their oppressors. It was unjust towards the Zemindars, in fixing the amount of their land-tax for ever at about eighteen shillings in the pound, not to explain fully that we had resolved to attempt a very great innovation, to introduce on a sudden a scheme quite unknown, and never thought of in that region of the earth: I mean the abolition of those ancient native customs, extortion and robbery.

We did establish our system; and imperfect as it is in practice, no law or institution, no measure of any sovereign in any age or country, perhaps ever produced so much benefit. We might see its efficacy, even in this very circumstance of the ruin of the Zemindars: they were sacrificed, but we afforded some degree of justice and protection to the Ryots.

The advantages, then, of our system are beyond all price; and after the detail I have entered into, it would appear superfluous to enumerate them.

I cannot omit to mention here, that the Ryots are not so well protected since the passing of Regulation VII., 1799, as they were during the five or six years anterior to that period. I beg to refer to the Appendix to the Fifth Report, page 530, paragraph 20 to paragraph 30, for my sentiments on this subject; and I have only to add, that I am informed the mischief done by this Regulation has greatly increased since my time. The Ryots have also suffered much injury by the cancelling of leases, to which they are rendered subject, in certain cases, by Regulation, I think, XLIV, of 1793.

I know no means of ascertaining the condition of the people in our territory, equal to that which ought to be in the power of every body: I mean, consulting the records of the courts of justice. Is there a tribunal to which the people have ready access? What is the state of that tribunal? Are the causes heard and decided? Can the Ryots obtain justice against extortioners? As to the laws or the forms of proceeding, these things are of less importance. Violence, extortion, and robbery must be redressed, if they come under the cognizance of any regular tribunal.

A district is described as happy and tranquil, because the revenues are paid regularly, and the people are submissive and peaceable: but this is not enough. I have seen a district of this kind. It would be called flourishing and improving when I saw it above twenty years ago; but it was notorious that the collections were made by Lawtie's sticks: that is to say, by a general system of violence and intimidation.

Such is, I repeat, the common lot of the people in India under a native Government. No doubt, many estates may be found, where the proprietor is powerful and humane enough to protect his Ryots; but no where, except in our territory, is the Ryot protected by a court of justice, nor can any other protection, in my opinion, be depended upon.

Is it possible to conceive that any man, acquainted with the subject, would propose the Punchayet, or any ancient scheme of Hindoo administration, as adequate to effect objects of such incalculable importance as those which I have described, involving, in effect, the security and welfare of a vast portion of the human race.

We may conclude, that India was, in a very remote age, much in the same state as when, in modern times, it became known to Europeans, fertile, abundant, and populous; the inhabitants mild, peaceable, and apparently contented. Their apparently contented and happy state implied no more than this, that they made no complaints, having nobody to complain to. Where a proper tribunal is established, the complaints are innumerable. To this day we are accustomed, at a single glance, to pronounce in favour of the justice and wisdom of a Government under which a state of things apparently so prosperous exists, and to ascribe to man what is owing solely to the bounty of Providence. The fact may be, and probably is, that for thousands of years the Ryots have been whipped and robbed, and their landlords also: and if we

we choose to connive at these things, and let them pass according to the ancient custom, I have no doubt that we may collect the revenue and carry on the trade, though we should shut up all our courts, and cease to disturb the natives by encouraging the spirit of litigation among them.

I observe, of late, a fashion of commending the Hindoos, their laws, their government, their police, their religion, even their treatment of their women. Misgovernment and oppression are supposed to have been brought into India by the Mahomedans. The Hindoo government, we are told, though a despotism, was mildly administered. Opinions of this kind I find in the Evidence taken by the late Committee of the House of Commons, and in the Fifth Report: but it is not, I hope, in agitation to undo the chief good we have done in the country, and bring up rules framed nobody knows when or by whom, and which no man has till now regarded in any other light than as curious relics of antiquity. Till these late discoveries, it was generally admitted that the native systems of administration were oppressive and vicious, and that the further we departed from them the better.

The Company's revenue servants on the Madras Establishment appear to have entered more deeply into the business of mofussil management than we ever attempt to do in Bengal. Some of these gentlemen have embraced sentiments in favour of the Hindoos, with great warmth.

The Hindoo mode of collecting the revenues has been revived, it seems, in some of the Madras provinces with great success. This, we are told, is a scheme of collecting the rent, according to engagements made with each individual cultivator by the Collector, who also makes measurements of land and annual surveys of crops, in short, superintends the most minute transaction of farming and accounts. Government, through the Collector, lets the whole province in farm. There are no Zemindars or great landholders in these provinces.

To destroy all intermediate agency, and collect the rents from the cultivators of the land, was the old expedient of the Bengal extortioners. See some account of the proceedings of Cossim Ally, in Lord Teignmouth's (then Mr. Shore's) minute of June 18, 1789. Under our Government this sort of management has seldom been resorted to without loss and mischief. The abuses attending khas management are notorious in Bengal: we consider it ruinous to the last degree. The disadvantages of this plan are stated in Mr. Shore's minute, Appendix Fifth Report, page 185; see also page 176. We moreover, in Bengal, generally consider that sort of knowledge of detail, which the revenue officers of Madras have attempted to acquire, as unattainable by Europeans.

Under such a scheme as this, however, it is the opinion of some well informed persons, that the Collector, by the judicious exercise of his authority, can effectually protect the Ryots. If so, our Bengal courts may be useless. If the Ryots are better protected without those courts, they are an expensive incumbrance, and the judicial system is a nuisance.

But till the year 1793 our Collectors in Bengal, though for the most part the same individuals who then became Judges, did not effect the object of protecting the people. On opening the courts under the new judicial system at that period, complaints without end were preferred, and many thousands of oppressive acts were redressed, and I suppose many hundreds of thousands prevented. In vain it is pretended that these complaints were unfounded or litigious, that the wrongs and grievances did not in reality exist: I positively assert, that thousands were heard and redressed, and that a great change was effected for the better in the condition of the people. Am I now to be told, that we laboured for so many years for nothing? It certainly did not occur to me, while employed in finding and punishing extortioners, that I was not curing the evil but creating it. I beg that those who entertain doubts upon this subject will inspect written evidence. I refer them to the first camel-load of depositions and other documents that may be found in any of the *maul adawlut* causes of the period to which I allude.

It is well worth while to inquire, whether any scheme, except that of a court of justice founded upon our Bengal plan, or some other similar to it,

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can be depended upon for protecting the Ryots: but we should be cautious of pronouncing in favour of the Collector's management, till we see that the Ryots have access to some tribunal. When there is really cause of complaint (as where is there not?) I cannot conceive how the Collectors of Madras could find leisure to grant redress, any more than the Collectors of Bengal under the old system. On the ryotwar principle, the best remedy for all existing evils in 1793 would have been, instead of the judicial system, to have added to the duty of each Collector the occupation of farming or holding khas the whole of his collectorship.

Little or nothing has yet been published concerning the judicial department of Madras.

The Select Committee, at the end of the Fifth Report, say they have been obliged to omit this part of their investigation for the present. That Committee being dissolved, I fear the subject is forgotten. In the report, however, I find incidentally noticed a few facts connected with this subject.

It is stated by Colonel Munro, in a report from Canara, that the accumulated suits of half a century appeared to have broken loose at once, and that every moment which he could spare from his ordinary business had been given up to the hearing them, without having sensibly reduced their number. (Fifth Report, page 132.)

Colonel Munro is far from supposing these suits to be litigious: they appear to have been, for the most part, claims to land brought forward by persons who had been deprived of their right by the oppression of the late Government. We hear nothing of suits for exaction. Canara was, at this period, I believe, under the ryotwar management: that management constituted, I presume, the ordinary business, from which probably little time could be spared.

A Collector in Arcot is afterwards quoted (page 156). Speaking of the numerous complaints made of oppression in his district, he says, "I have no "power to grant redress. I can only refer them to the court; and the court, "if it did nothing else, would not have time to redress all such grievances, "even if they came before it: but the road to justice is so clogged with forms, "&c., that nine out of ten of such grievances never can come before it."

These numerous grievances, which the Collector of the southern division of Arcot seems to have been of opinion that he could redress in a summary way, though he has not explained the means by which he proposed to clear the road to justice of the forms with which it was clogged, were for the most part, according to the opinion of the Select Committee, produced by a departure from the ryotwar settlement.

The Collector of Chingleput, giving an account of his operations under the ryotwar system (Appendix, page 782), states "the people to be well satis- "fied: that there were no complaints, except on the part of a Ryot whose "bullocks had died, in consequence of which he could not cultivate according "to his agreement." Let it be observed, that this district, where there were no complaints, was subject to a complicated scheme of experimental management by a European, under a rack-rent in many instances over assessed; that the Collector, describing the condition of the people the year before, states their poverty to have been extreme, and their want of confidence great; that many of them having become bound to pay what they were unable to pay, were relieved by remissions, which the Collector granted, not, if I understand him, as matter of right, which might have been claimed in a court of justice, but by an act of special favour and beneficence, though indeed there had been a previous promise that no man should pay for land which he had not cultivated.

All complaints regarding bad crops and claims to remission, says Colonel Munro (page 749, Appendix), should be received with very great caution. were an investigation to be ordered whenever a cultivator thought proper to solicit an indulgence for his loss, claims would soon become so numerous, that all the revenue servants in the country would not be able to examine one half of them.

But

But here, in Chingleput, there were, it seems, no complaints, no grievances, no wrongs, I suppose. A Dewanny Adawlut would be useless in Chingleput. How much trouble, toil, and expense might be saved in Bengal, could we but imitate the administration of the Collector of Chingleput.

At this moment I hear by accident that this Chingleput, a district in the neighbourhood of the Presidency, has fallen of late into a very bad state; that there are more complaints and a worse police in that district than in any other part of the territory of Madras. This state of things will, of course, be imputed to the introduction of the judicial system. It appears, further, from the account of the ryotwar settlement in the report of the Select Committee (see pages 120 and 121), that the rents are fixed at a rate so far above the ability of the land, that as to any practical purpose, it can hardly be considered as any settlement at all. The specific amount of rent to be actually collected is not settled The survey valuation constitutes, says the report, the maximum of assessment, but the actual demand on the cultivator is to depend on a variety of circumstances. A second tour of the Collector is to take place, and an examination of Potails' and Curnums' accounts; of Potails who are always deceitful, and Curnums' accounts which are generally false. Hence we find, that the chief business of a Ryotwar Collector is to grant remissions: and how this part of his duty is performed may be seen in the Appendix 20; particularly in the letter, quoted above, addressed by Colonel Munro, principal Collector, to the Collectors of the Ceded Districts, dated 25th August, 1802 (Appendix, page 748).

The whole of this letter requires notice; but I beg to point out, at present, that part of it only which directs levying the rent, or certain portions of the rent due from defaulters, from their neighbours. If one Ryot cannot pay his rent, the Collector is to take it from other Ryots When a farmer, owing to a calamity or mismanagement, fails, if he turns bankrupt or runs away, his neighbours are to pay his rent for him.

Now this, though not a Hindoo law, (the Hindoos would hardly acknowledge such a law), yet is undoubtedly a Hindoo custom, and one of the worst of their many bad customs. Nothing in fact can, in my opinion, be more pernicious and abominable, except the ancient Hindoo concomitants of this system, their whips and tortures; and if a man, so enlightened and humane as the author of the plan, could sanction such a rule, what might be expected from other Collectors, who, after his departure, are to follow these rules and carry them into execution!

What must be the condition of a people under such a system as that described in the letter above referred to. In vain we talk of established rates, of share of crops, and rights of Ryots; whatever may be the cause of failures in paying the rent, the arrears are to be collected from other villages and other Ryots. That most rational and highly desirable object, which in all the Bengal revenue discussions was steadily kept in view, though certainly not always attained, the object of rendering the demand upon the Ryot certain and intelligible as upon the Zemindar himself, is here, in practice, wholly lost sight of and abandoned. Every thing is loose and uncertain, and no man can know what he is liable to pay: even the *maximum* is forgotten, and to him whose neighbour is in arrear it becomes a *minimum*.

This is the scheme in its direct consequences, I should imagine, productive of the vilest extortion, pillage, and rapacity, which the Select Committee of the House of Commons commended in a high strain of encomium.. They are convinced of its beneficial effects: particularly that it relieves the Ryots from exaction, excites among them confidence in the equity and justice of the Company's Government, and does not interfere with the just rights of any party.

Well may the Ryotwar Collectors talk of the incompatibility of their system with that of the judicial institutions of Bengal. Well might the Madras Government delay, from year to year, the introduction of the Bengal Regulations, lest the Collector's influence should be destroyed and the collection of the revenues impeded.

As to ancient Hindoo management, of which some persons profess to be so fond, we seek it in vain in history: but some specimens of it might, perhaps have

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have been perceived in the estates of the Poligars. Those Hindoo chiefs, indeed, were treated with as little ceremony, by the admirers of their laws and customs, as by their late Mahomedan lords paramount. We have not heard that their administration was so just and humane as to supersede the necessity of all reform; for on consulting the few Madras records, to which we have access, we learn that, though some Poligars are restored to their estates on paying advanced rates of revenue, or converting peshcush into rent, as it is termed, and some few have a miserable pension for their subsistence, many are dispossessed and in jail, and not a few, I understand, have been put to death. Why are we to suppose these Poligars degenerated? I dare say they resembled their predecessors, and that the management of their estates, which comprises the government of the people, differed little from that of India in general. In the Pollams might perhaps have been found the punchayet and the Ryotwar settlements, and the ancient Hindoo judicial institutions in their genuine primitive state, unpolluted by the reforms of Mahomedans or Christians.

Is it not singular, that in England inquiries should be set on foot, by the Company, into these ancient Hindoo laws and customs, with a view to their revival and preservation, while in India the Company's servants are sweeping them away, or passing them by without noticing their existence.

In the woods, among the Rajahs and Poligars of the borders, may yet be gathered lessons for those legislators who would govern Hindostan according to the ancient institutions. There, by contemplating Poligar management, we may study Menu to more purpose than in his book: there we might supply the defects of history, and from what still exists, form a tolerable judgment of the state of India in remote ages.

But of what value are authorities, mere authorities, ancient or modern, to those who profess to understand these questions and discuss them on their own merits? Can it detract from the fitness of the Regulations introduced twenty years ago by Lord Cornwallis, to learn that about twenty centuries ago King Porus had no fancy for any judicial system but that of Menu?

We talk of respecting the usages of the people. This is a good rule, when the usages are good: but many of the native usages are, in the highest degree, barbarous and absurd; and we are not quite so barbarous and absurd, I hope, as to encourage them.

The rule of collecting the arrears of defaulters from their neighbours does not, necessarily, form a part of the Ryotwar plan. Nothing could reconcile me to that, because I conceive that it constitutes a sort of legal sanction to extortion: it makes extortion the general practice and duty of the revenue officers. I conceive that those only can form a fair judgment of the effects of the Ryotwar system, who are acquainted with the state of the courts of justice in those districts of Madras where it has taken place. I have seen nothing on this subject; but we are told, on great authority, that not only under this Ryotwar system, but under the system described in the letter to which I have referred, the country is flourishing, the police good, the people contented. Be it so: let this be called prosperity and happiness. I would venture to disturb this happy state of things by the introduction of our Bengal tribunals. Many Ryots might then discover that they were ill treated. They would repair to the cutchery, according to their mode, in crowds, with ploughs and torches, and loud complaints of *bashee khezana* exaction of rent. Who can be contented under such a system but an abject, crouching, undone people? Far preferable, I conceive, to such a state, is that of the Bengallies of a certain district, who, endowed with the spirit of litigation under our system, have been reduced to two classes, plaintiff and defendant.

If the Ryotwar plan can be carried on successfully after the establishment of the judicial authorities, if rules can be framed, under which the Ryotwar Collector shall act as manager only of an estate, and the Judge shall have the usual power of redressing grievances; then I shall not condemn the plan: but I protest against the Ryotwar Collector having any judicial power whatever. As manager of an estate, only, he ought to be considered: consequently we must be jealous of his power, lest he should pervert it to purposes of extortion.

tortion. Every manager of an estate has, in India, a natural inclination or tendency towards extortion. If any man, whose business it is to collect rent from the Ryots, shall persuade himself that, while so occupied, he is the fittest person in the world to defend these Ryots from the oppressions which he and his dependents commit, that his occupation supersedes the necessity of all controul that person, in my opinion, most grossly errs.

From the detail I have entered into, which will, I hope, not be thought to contain matter wholly unconnected with the subject, some notion may be formed of the extent of the task which the courts of justice have to perform in Bengal It constitutes almost the entire business of the internal government of the country. It will also be seen, that the establishment, though not perhaps indispensable to the peace and tranquillity of the country, is highly beneficial, since it promotes the welfare of the people.

With respect to the disadvantages of the system, I do not think it necessary to add much to what I have already stated. These disadvantages have, I think, been exaggerated. Some I have heard mentioned as such, which perhaps have no existence. I have heard, for instance, heavy complaints of our judicial proceedings being embarrassed with unnecessary forms. Now the forms appear to me simple: it is difficult to render them more so. Some disadvantages may arise from our want of skill; the written pleadings are somewhat loose and tedious; the evidence we take is seldom remarkable for brevity; the decisions are often erroneous. Of these defects, part may be ascribed to human infirmity and to our peculiar circumstances.

It is certainly true, that the courts are, for the most part, overloaded with business But to proceed upon the ground of this fact only of the accumulation of causes, to condemn the whole system, to declare the tribunal useless, and to determine that henceforth no causes at all shall be decided, this would, indeed, be extraordinary. That law process is tedious and expensive, seems to be the usual complaint in countries where its administration is supposed to be most perfect. We cannot reasonably expect this defect to be entirely removed.

I take the liberty of adding to the enumeration of the advantages of our judicial system, one which strikes me as not inconsiderable or unimportant; I mean the improvement of the Company's service, by the introduction of steadiness, regularity, and economy, which I conceive to be, in a great measure, the result of the judicial system, or at least the result of that alteration in the Government, of which the judicial system forms the chief feature.

But I would also observe, that the occupation of a Judge in India brings him nearer to the body of the people, and he becomes necessarily more familiar with their wants and usages, and with the internal state of the country, than any other European in office. In his capacity of magistrate, though he becomes best acquainted with the worst members of the society, it is remarkable that this employment, on the whole, produces sympathy and kindness for the natives. It has cured, or at least very much mitigated, those feelings of contempt and distrust of the natives, which used to prevail among us

Men who exercise arbitrary power, insensibly become careless about the welfare of the governed. This was especially the case in India, where the rulers are a body of foreigners, distinct from the people, and have no interest in common with them. By the judicial system much of this is modified and corrected, and habits are created favourable to the exertion of the most useful qualities.

6th Question.

If you are of opinion that the system should be continued in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishments (particularly in native servants and their allowances) for these courts?

Answer.

So far from reducing the number of courts, or the establishment of native servants attached to them, I am of opinion that they are inadequate, and ought to be increased.

It would not be consistent with common humanity or good policy, to curtail the establishment of natives, either

either in numbers or salary. The labour of the ministerial officers is very great.

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In the Second Report, Select Committee, May 1810, Appendix, page 131, will be found a statement of the judicial establishment of Bengal, from which a judgment may be formed of the disproportion between the pay of the European servants and that of the natives.

My opinion is, that the system should be continued, and that the expense cannot be materially diminished, except by the expedient which I have already pointed out, of employing the natives instead of Europeans.

7th Question.	*Answer.*
Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?	Hitherto our system has had very little effect, wonderfully little, on the character and habits of the people. So I thought while in India.

It might be expected that a system, which in a great measure secures person and property, not by the sudden and transient exertion of power and patronage, but by means of a steady uniform tribunal, guided by written rules, a system which emancipates the Ryot and renders a patron or a master unnecessary to him, that this alone must effect a complete moral revolution throughout the country, that the nature of the man must change, that he must learn to think justly and to assert his rights. But whatever may be the obstacles to this operation, it has not taken place. The natives are very slow in comprehending these things. We learn a little of their language, and insensibly adopt something of their habits and demeanour in our intercourse with them; they compel us to see in them a servile spiritless race, and we treat them accordingly.

Notwithstanding all this, I think our administration in India must, in time, produce a very beneficial effect on the state and opinions of the people; especially if we remove the imperfections of our judicial establishment, and adopt the improvements of which it is obviously susceptible. It is needless to dwell upon the salutary effects of securing to the natives protection and justice: without these, there is no moral existence, and of course no intellectual improvement.

It can hardly be correct to say, that the Hindoos are unchanged, although the progress of their change may be to us imperceptible. That they are at this time undergoing a change, owing to the influence of our system of government, and to their intercourse, imperfect as it is, with Europeans, is certain. I incline to think, also, that the Hindoos of remote antiquity, who are known to us only from the remains of their temples and a few of their books, who were perhaps governed by one monarch and by the same laws, and spoke one language throughout Hindostan, that those Hindoos differed considerably from the Hindoos of the present day.

Considering the system prospectively, it does appear to me to have a tendency, though slowly, to enlighten the natives, to introduce European science and literature among them. When these come to be diffused, which unless we either colonize or adopt some plan of national education in India, must take a long time, then I conceive that true English spirit, and the assertion of individual independence, will at the same time appear: and in such a state of things, it cannot be supposed that the present form of Government, or any other in which the people have no share, can be perfectly secure.

Very few of that class remain, through whom our manners, our literature, our social habits, might in a natural course work some beneficial change upon the general character of the people. The nobles are extinct; the race of gentry scarcely exists. Our system operates only on the mass of the people, and I fear, in many respects, its operation is not salutary.

But, on the whole, the balance of good is greatly in favour of our system of Government. Without hesitation I affirm, that the people derive benefit from it, and the best part of it I conceive to be our judicial system.

8th Question.

8th Question.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Answer.

The natives would undoubtedly, at present, confide in the uprightness of Europeans. They have experience of it: they have little experience of the uprightness of Judges appointed from their own people. We have produced this state of things, by entrusting Europeans only with the chief offices in the country.

The natives hold no judicial offices but the lowest, and are paid very ill. It is only since the Europeans were well paid that they themselves became trustworthy.

Question 9th.

Are you of opinion that the natives may, in respect of integrity and diligence, be entrusted with the administration of justice; and how far, or more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of the judicial system allotted to their execution, they should be superintended by Europeans?

Answer.

I am of opinion, that with respect to integrity and diligence, the natives may be trusted with the administration of justice.

I think no superintendance of Europeans necessary. I have already, in my reply to Question 4th, offered my opinion upon this subject. If the natives are not qualified for these or any other offices, I conceive the fault to be ours, and not theirs. If we encourage them, if we allow them to aspire to high office, if we pay them well, if we raise them in their own estimation, they will soon be found fit for any official employment in India.

I beg to repeat what I long ago in substance said upon this subject, that the natives are depressed and humiliated, being confined by us to subordinate and servile offices. Although their education is most defective, and ignorance and credulity pervade all ranks, especially among the Hindoos, they are nevertheless found to acquire easily the requisite qualifications for the duties which we are pleased to entrust to them. From temper, habit, and peculiar circumstances, they are in many respects fitter for the office of a Judge than ourselves.

But we place the European beyond the reach of temptation. To the native, a man whose ancestors perhaps bore high command, we assign some ministerial office, with a poor stipend of twenty or thirty rupees a month.

Then we pronounce, that the Indians are corrupt, and that no race of men but the Company's European servants are fit to govern them.

Question 10th.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Answer.

I certainly have no such knowledge as enables me to answer this question satisfactorily. I can merely give an opinion on the subject, founded upon very imperfect information.

The general average population of one zillah or district, throughout the Bengal provinces, may be taken, I think, at something less, but not much less, than one million. The districts are very unequal in size and population. In the Lower Provinces, or Bengal proper, I think they exceed the proportion of a million each. I once acted as Judge on the Calcutta circuit, in which there was seven zillahs, namely, Jessore, Nuddea, Beerboom, Burdwan, Hooghly, Midnapore, Twenty-four Pergunnahs. None of these zillahs, except Beerboom, I should suppose to contain so few as a million inhabitants. This was above ten years ago; and no famine having occurred since, the population has no doubt increased. The divisions of Moorshedabad and Dacca comprise districts for the most part quite as large, but I think few of them as populous as the division of Calcutta.

In the Patna division or province of Behar, some districts, I should imagine, exceed a million: in the divisions of Benares and Bareilly, I doubt whether any

any one zillah contains a million. The average must certainly be considerably less.

The cities contain fewer inhabitants than the zillahs; but the jurisdiction of a city Judge generally extends somewhat beyond the limits of the city itself.

Although the ancient cities of India, the Mahomedan as well as the Hindoo capitals (we can except only Benares) are gone to decay, and exhibit a melancholy spectacle of temples and other buildings in ruins, they are still populous.

One of the interrogatories put to the Judges in 1801 was upon this point. I mean the population of their respective districts. I was then Judge and Magistrate of Midnapore, and by an enumeration of a great part of the zillah, I thought myself warranted in stating its population at full one million and a half.

A reference to the replies of the Judges and Magistrates to the interrogatories in 1801 will perhaps be useful on the present occasion.

Question 11th.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient, or do you think that it would be practicable and expedient to resort to any of the modes practised by the native governments, for maintaining the peace and order of the country?

Answer.

The state of the police in Bengal was very bad in my time, as will appear from the reports of that period, some of which are printed in Appendix, No. 12, Fifth Report Select Committee.

The remedies adopted by the Government of Bengal for the suppression of dacoity or robbery, and the improvement of the police, are explained in the Secretary's report on the general state of the police, recorded in the Judicial Consultations of September 29th, 1809, inserted in Appendix 12, page 603, Fifth Report.

This plan for the suppression of dacoity, and the general improvement of the police, contains, I think, little of novelty. The superintendent of police was appointed some time before. The plan vests no man, except the Goyendahs or spies, no public officer or private person, with any new authority. It exhorts the Magistrate to vigilance. It proposes the employment of spies; and this has always been the practice, but from necessity and in a limited degree. The plan was produced in consequence of the increased prevalence of dacoity. It relies on the Goyendahs chiefly for its efficacy. The Goyendahs are to be employed systematically, in tracing out, pursuing, and apprehending dacoits. The plan contains no preventive remedy for the evil, any further than the increased probability of detection and apprehension may inspire terror.

The Superintendent of Police acts under the eye of the Governor General in Council, without the intervention of the Nizamut Adawlut, or chief judicial power.

The main defect of our system has been frequently described to consist in our having failed to obtain the co-operation of the people The evil is sufficiently manifested: I wish it were as easy to apply a remedy. The plan above referred to does not appear to be specifically directed to the correction of this evil. If it has improved the police permanently in any very material degree, we must suspect that we were wrong in our notion of the defect. But it is stated by the Bengal Government, that the new plan has had the best effect; and I have heard privately, that dacoity has much decreased, and in some districts entirely ceased. It is proper to enquire into the consequences of employing the Goyendahs on this extended plan. I have endeavoured to obtain some information upon this subject, and shall take the liberty to state the result of it somewhat in detail.

I find that the jails were filled with such crowds of prisoners, that it became impossible, in any reasonable period, to try them, or even for the Magistrate to examine into their cases, with a view to their being committed for trial, or discharged.

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The Appendix to the Fifth Report furnishes but few documents relative to this part of the subject: these are inserted in Appendix, No. 11. From page 594 to 602 will be found an account of the jail delivery of Zillah Twenty-four Pergunnahs, by the Acting Judge of Circuit, Mr. Watson. In a letter to the Magistrate, Mr. Watson points out, in very striking terms, the mischief of employing Goyendahs. "*In every case of dacoity* brought before me," he says, "the proof rested on a written mofussil confession given in evidence "at the trial; and I regret to add, that *all those confessions* bear the marks "of fabrication. In one of these cases, a prisoner, *who was perfectly innocent*, "confirmed before the Magistrate, under the influence of improper means "priviously made use of towards him, a confession before a police darogah, "which was proved on the trial to be false, and which had in fact been extorted "by intimidation and violence."

Mr. Watson proceeds, in paragraph 8 of the same letter, to censure the confinement, during seven months, of two men who had merely refused to swear falsely against a prisoner; and in paragraph 9 he presents a most just and forcible picture of the machinations of Goyendahs and Darogahs. In a note to the same letter, page 597, Mr. Watson mentions, that on the 8th of September there were no less than two hundred and nine prisoners in the Hajut Tujorez jail, some of whom had been in confinement for five months from the 20th April. By *Hajut Tujorez* is meant under examination: here it probably means, *not yet examined* by the Magistrate.

From these documents we find, that the employment of Goyendahs by no means answered any good purpose in this zillah of the Twenty-four Pergunnahs, where the experiment was made by the Magistrate under the eye of Government. It appears to have been attended with a long and cruel imprisonment of innocent men: many dreadful abuses were committed, but it does not appear that any dacoits were taken.

In Zillah Shahabad I learnt, from the report of the Circuit Judge, dated Patna, 18th November 1811, that the Goyendah system was acted upon with great vigour and effect, in consequence of two robberies of public treasure committed at Arwul and Dungain. Within a few months eighty-four persons, charged with being concerned in these robberies, were apprehended, and thirty-six of them were committed for trial. The Magistrate was highly applauded by Government for his exertions.

But of sixty-two persons apprehended on account of the Arwul robbery, not one was convicted. Nine died in jail before the trial. This circumstance is noticed by the Nizamut Adawlut, in their resolutions of 21st August 1811, with concern, "especially as there are strong reasons for believing that those "nine persons were innocent of the charge preferred against them." In the other case, the robbery at Dungain, the final result of the trial which was referred to the Nizamut Adawlut does not appear in any documents to which I have access; but it seems that three prisoners were found guilty, according to the opinion of the law officer, and two only, according to the opinion of the Judge of Circuit.

On the 6th January 1810, some dacoits carried off near a lack of rupees worth of treasure at Muddenpore, killed nine men, and wounded twelve more. Some months passed without any discovery of the perpetrators of this robbery. The Goyendahs were then set to work, and a man named Dulo Sing was sent by the magistrate into the country, with powers to apprehend persons on suspicion. This Dulo Sing, in the course of six months, seized, or caused to be seized, almost at random, and without any just grounds of suspicion, one hundred and ninety-two persons. One hundred and forty-two were released by the Magistrate, as soon as they could be examined, and forty-six were committed for trial. Six men made confessions, and received pardon, or promise of pardon. Dulo Sing was rewarded with the grant of some land by Government, on the representation of the Magistrate.

On the trial, the report upon which I have read, it appeared that the prisoners were all innocent of the robbery, and they were acquitted accordingly. It appeared that the confessions were extorted or fabricated by Dulo Sing; that many witnesses were suborned by him; that the inhabitants of several villages were laid under contribution, the people seized, and their houses

 searched,

Answers to Court's Queries.

Sir H Strachey.

searched, at the pleasure of Dulo Sing. Of the forty-six prisoners who were detained in irons above a year before the trial, three died during their confinement.

But it was in the district of Nuddea, in the vicinity of Calcutta, that the new plan of employing Goyendahs was first acted upon, and with most effect, and was stated to have been attended with most success. It was the *benefit* experienced in the district of Nuddea, from the employment of Mr. Blacquiere with Goyendahs for the discovery and seizure of dacoits, which suggested the employment of the same means more extensively. (Fifth Report, page 76.)

At Nuddea were sent in as dacoits, from 20th November 1808 to 31st May 1809, 2,071 persons. Great delay necessarily took place in the examination of these prisoners. I am unable to state the ultimate disposal of this multitude; but I find that, in six months and ten days, forty-eight had already died in jail, two hundred and seventy-eight are stated to be in a course of inquiry, or under examination by the magistrate. Prisoners not yet examined 1,477.

In some resolutions of the Nizamut Adawlut, dated in June 1811, they observe that since the preceding December, when there were still fifteen hundred prisoners in the Nuddea Jail, the number had been reduced to seven hundred and fifty-three. This is two years after the death of the forty-eight. Now it is very probable, that all these dreadful proceedings had some effect, though innocent men suffered. I conceive it to be most likely that dacoits, seeing a great stir made, and that the vigilance of the police was excited to such a pitch that no man could be secure against being seized by the Goyendahs, and thrown into jail, would abstain from their depredations for a while, or leave the country, or betake themselves to some other employment. In this way, I think, the new measures may have had some good effect. Indeed, it is certain that in Nuddea, at least, many dacoits were brought to justice; whether by the ordinary mode, or whether they were included in the 2,071, I am not informed. At all events, the good done was purchased at the expense of too much evil. Such shocking cruelty, such a monstrous perversion of justice committed with our eyes open, and with deliberation, the imprisonment of multitudes, the harassing, the subordination of perjury, the plunder, the death of innocent men in jail, these scenes I conceive to be most discreditable to those who permitted them. They ought not, under any circumstances, to have been endured. Dacoity itself, dreadful as it is, cannot be compared in its quantum of mischief to what was produced by this horrid system. It can be compared only to the ancient native remedies. I remember being told by a gentleman, high in the Company's service, who had long resided in Bengal, that he once complained to the nabob at Moorshedabad, in whom was then vested the criminal jurisdiction of Bengal, of the prevalence of robbery in a particular district. Going to that district a few days afterwards, he was much shocked to find that, pursuant to the orders received from the Nabob, a great number of men who had been seized were put to death by empaling, and other cruel modes of execution. How many of the men so executed were guilty, it was impossible to say; but from what I have seen of the judicial proceedings of that period, I should doubt whether any were regularly proved to be guilty. But these executions would, no doubt, strike terror, and produce for a time considerable effect in checking dacoity. In the same way, the late plan for improving the police of Bengal, or rather the employment of Goyendahs, which followed, may have operated to check dacoity, at the expense of the sufferings of the innocent.

Although it is impossible to speak of such things as I have detailed, in any other terms than those of strong reprobation, I doubt very much the general expediency of any interference from this country with the detail of the business of the police. The subject is much better understood on the spot, and the intentions of the Government in affairs of this nature are uniformly good.

Indeed, I cannot help feeling great surprize at what has passed. I am acquainted with most of the individuals under whose superintendence these things have happened, and I cannot account for their allowing them to happen without opposition. The Nizamut Adawlut did, it seems, on the 23d August, 1810, pass some resolutions regarding Goyendahs, which will, no doubt, have the effect of preventing the recurrence of such scenes as have been

been described: and the Government is, I dare say, by this time convinced, that little permanent benefit can be expected from the regular employment of Goyendahs. On the whole, therefore, the state of the police may still be considered as very bad: such as it was stated to be several years ago, in the reports of the Judges of Circuit and other documents.

With respect to remedies, for my own part I must content myself with stating generally, that I think the only effectual remedy is to invest with power such of the natives as naturally possess influence over the people. These are chiefly the landholders. This is, no doubt, a difficult task to accomplish in Bengal. I think we should endeavour to make, not that class only, but the body of police officers, more respectable and dignified. If possible, we should assimilate to ourselves all those who may be entrusted with any of the duties of magistracy. Every police Darogah might be appointed a Moonsiff or civil Judge, and his emoluments and importance would be increased. It is a radical evil in the constitution of our Government, that we are a distinct race from the people: so far removed from them in habits, in taste, in sentiment, that with difficulty we maintain any useful intercourse with them. For this evil, palliatives only can be applied. I can suggest no means of curing it, except our colonizing, or employing the natives in high offices.

I think we should, in Bengal, let it be understood, that each village must rely upon its inhabitants for the preservation of the peace; and I would by all means encourage the people to arm and resist dacoits. But superintendence by men acting upon our principles, and under our Regulations, I think indispensable.

With respect to any plan of native police, I do not think that, in Bengal, we can avail ourselves of it, any further than I have just mentioned. Indeed, I am not much acquainted with the native plans of police. We should carefully preserve the establishment of village guards, which at the period of the settlement of the land revenue was left to the Zemindars, and consequently neglected. These guards had generally lands to maintain them. In many instances, the lands were resumed and included in the assessment: in others, the lands, soon after the conclusion of the settlement, were taken from the possessors by the Zemindars, who probably conceived, that having nothing further to do with the charge of the police, they were not bound to maintain men who acted as police officers. In general, however, the village guards exist, though diminished in numbers and straitened for subsistence. The Regulations direct that they should be registered and subject to the Magistrate.

Under native administration, the collection of rent being the chief object, the village guards were, for the most part, employed in the collections. How it happened that, in the Bengal provinces, above 100,000 men, armed with swords and shields, were required for this purpose, the purpose of collecting rent from poor cultivators, may not be very easily understood; though in the course of my reply to another question, I have endeavoured to convey some notion of the native mode of transacting this business. The services of these village guards are, it is to be hoped, little wanted, except as police officers. When they were deprived of their lands, a great number of them naturally became dacoits. The instruments of extortion, the tormentors of the Ryots being already robbers, the change in their occupation was not great.

From this view of the subject it may easily be conceived, that the peace of the country, forgetting for a moment that there can be no peace for those who are vexed with the incessant visitation of extortioners, might be better preserved in these provinces of India, where the same individual collected the rents from the Ryots and had charge of the police. This is the ryotwar management. But in Bengal nothing resembling such a plan can be adopted, unless we abdicate our authority, and resign the government of the people into the hands of the Zemindars. This would be reverting to the ancient institutions. The extortioners would look to the police, the village corporations would revive, things would fall into their old course, and the country would depend upon its own natural resources.

In the Fifth Report of the Select Committee, page 85, is given an account of a Hindoo village, and the different trades and professions which are said to compose

compose regular corporations, the whole constituting a simple form of municipal government, under which the inhabitants are stated to have lived from time immemorial. These corporations, if they ever did exist in so perfect a form as is here represented, are, I fear, much deranged in the Bengal provinces, where our system has so long been introduced, that few individuals of the present generation have experience of any other. But every village, no doubt, affords one or more persons who exercise that trade or profession for which there is a general demand. Few of these persons now hold chakeran, or service lands, being no longer public or even zemindary servants. This tie being broken, and the landholders being no longer the rulers, it would be difficult to restore the ancient discipline of the villages. Nor is it probable that peace and good order were ever preserved by these ancient municipalities, without such abuses of authority as we could never tolerate. The Mundul or Moccidum, or whatever may be the designation of the headman answering to the Potail of Madras, would probably still be found to hold land, and to perform zemindary service. This would, perhaps, be the person who would exercise the office of Judge, in the event of the restoration of the native institutions. At present, his duty is confined to the Ryotwary management, for which alone he is, I admit, better qualified than the European Judges. I cannot except even the civil and military servants of Madras.

The minute division of labour may have been known and practised to a considerable extent among the Hindoos, long before the period of true history. Still I cannot persuade myself that our further subdivision and separation of the judicial from the farming occupation, is a bad plan. I really think it an improvement upon the Hindoo plan. It separates the judicial from the bullock department. The Moccidums or Potails are not qualified to be judges of men, but they are fit judges of cattle.

We may doubt whether the office of Magistrate would naturally fall into the hands of the Moccidum or head man of the village, supposing the native system to be revived. As the most powerful, he might be expected to take the office upon himself, and to preside in the village courts, but some part of the magisterial duties would, in all probability, devolve upon another member of the Hindoo corporation: I mean the astrologer, or perhaps the conjurer or juggler. Upon the conjurer, who would take the command of the corps of Goyendahs, would at least fall the duties of superintendent of police; and the Goyendahs, in addition to their present labours, would assist the astrologer in the detection of witches.

It is, I should hope, superfluous to consider the native system. We cannot seriously talk of reviving it in Bengal. What we have done cannot be revoked. We have produced great changes, and perhaps occasionally done some mischief, which cannot easily be repaired. But barbarism and confusion will, I conceive, overwhelm the country, if we give up our system now, and throw the natives suddenly upon their own resources.

With all the abuses and want of skill that are visible in our system, it displays, I firmly believe, more of intellect and rationality, and consequently of substantial justice, than can be found in the policy and legislation of the whole eastern world, from Constantinople to China. It would be unpardonable to withhold those blessings, which a series of astonishing events has enabled England to dispense to Hindostan. For my sentiments respecting the police and criminal legislation of Bengal, I could wish to be permitted to refer to some papers written by me while in office in India. I was then familiar with the subject, and had ready access to documents, to the natives, and to every source of valuable information. Some of those papers have been transmitted to England, and are printed in No. 11 of the Appendix to the Fifth Report of the Select Committee.

Question 12th.

Can you state what the limits and superficial contents were of the district in which you acted?

Answer.

The limits of Midnapore, the district of which I was Judge and Magistrate, were, I think, nearly as follows. In length about one hundred and thirty miles; in breadth, from forty to fifty miles; the superficial contents between five and six thousand square miles. The greatest part of this district is

is a jungle, never cultivated, but not wholly uninhabited. I, of course, speak of Midnapore as it was when I was there. The limits of that district are now, I believe, changed, many of the jungle mehals being separated from, and I believe some Mahratta pergunnahs added to it.

Answers to Court's Queries. Sir H. Strachey.

Question 13th.

Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit and submit to the decision of the punchayet; or has the punchayet, at any time or on any occasion, been recognized by the courts of Adawlut or the English Government?

Answer 13th.

I know nothing of any formal recognition of the punchayet by the courts of justice or by the English Government. The courts, as I have already stated, are in the constant habit of recommending arbitration, of any kind, to the parties in a cause. The punja, or punchayet, is, I believe, a Hindoo mode of arbitration. Without, therefore, any specific recognition of the punchayet, it may be said to have been recommended and encouraged by the courts.

(Signed) H. STRACHEY.

30th December, 1813.

E. STRACHEY, ESQ.

Answers to Court's Queries. E. Strachey, Esq.

1st and 5th Questions.

I think that the system has fitness so far, that it is a benevolent plan for distributing impartial justice to our native subjects, and preserving to them their own laws as much as possible. In this sense, I suppose, there can be no question about its fitness; but if we are to say whether the system is adapted to the state of the people as they are, its fitness perhaps may not be so fully admitted. Yet I know not how we are to determine what system, founded on free and equal principles, can be fit for a people, where no government has ever been known but a despotism modified by strange relations of things imperfectly understood or utterly unknown to us. It will not, however, be pretended, that we were bound to preserve the old bad practices of a despotic government: certainly not. In short, we had only a choice of evils; for it was no more in the nature of things that the system could be perfect, than that contraries could be reconciled. As far as the system adheres to its just principles, and at the same time preserves to the natives every thing that ought to be preserved, it may be said to be fit; as far as its purposes are effected without abuse, it may be said to be efficient, and *vice versâ*. There are, perhaps, essential evils attending even the best possible judicial system; such as that it promotes litigation, that it is tedious, harassing, expensive, &c. There are also contingent abuses of various sorts which have grown up under ours. We should endeavour to separate those which are unavoidable from those which are not so, those which cannot be remedied without overthrowing the whole system, from those which may be remedied, not only without damage but with great advantage to the whole. Doubtless there is much good done at every police office, and at every court of judicature in Bengal: yet every police office and every court is a point about which villainy in every possible shape collects. There is nourished a hotbed of litigation, fraud, perjury, and all manner of corruption: crimes increase, and the people suffer in various ways. But these abominations do not proceed from the order of the police and the justice of the courts, but from abuses which have been suffered to grow. Prevent the abuses and the evils will not exist. To explain this farther. When I was on the circuit at Nattore, in 1808, more than three thousand five hundred witnesses were summoned at that one station, and between seventeen and eighteen hundred actually attended. The persons who came were put to great inconvenience, the Government was subjected to considerable expense, and corruption was fostered under the rapacity of the police officers, who made many of those that did not attend pay for the favour of exemption. Now it might be difficult

to propose an effectual remedy for these evils; but it is very evident that they never would have existed, if Government had, by their vigilance and activity, kept down dacoity and prevented abuses.

But in considering *the system,* I have usually taken the rules and practices together, including the abuses; and calling this the system, it has always appeared to me to contain a great deal of evil. If the rules were administered as they might be, with vigilance and activity, though I will not say the system would even then be free from inconveniences, I have no doubt that the preponderance of good would be most striking. But whether the system is good for Bengal, where it has long been used, or whether it is fit for new countries, are distinct questions. It seems to me that to overset it in the one, or to establish it in the other too hastily, must be alike an injudicious innovation.

2d Question,

To do away the judicial system entirely would, I have no doubt, be utterly ruinous. I do not know of any Hindoo institutions which could with advantage be now substituted for any part of it.

3d Question.

Punchayet commonly means nothing more than arbitration; but I suppose it is here used in its more extended sense, and we are to understand by punchayet an assembly of men, generally respected by the caste or other description of persons under whose authority it assembles, acts, and dissolves. Any matter of common concern may be decided by such an assembly, and its decisions must have great weight among the people, though not recognized by our Regulations. We constantly hear parties in our courts referring to punchayet, as a test of propriety, in some way or other; but it must be observed that the term is extremely vague, till we know the precise meaning which is attached to it.

The decision of a punchayet of Hindoos in matters of caste I should think final. I never heard of its clashing with our courts; nor do I think our courts would attempt to interfere in such matters, though there certainly are some questions of caste which do come before them under the Regulations. Of this nature may be suits about prohitee and injmanee, or the privilege of exercising a sort of spiritual superintendance among certain persons or within certain limits. Our courts might perhaps decide that one individual had a better claim than another to such a privilege, but their decision might not be very easily enforced. Now decisions of such cases are probably often made by punchayet with perfect propriety, and enforced without difficulty.

The question, whether a Hindoo is to be excluded from his caste, is constantly, I understand, determined by the punchayet; but no court of ours would take cognizance of such matters. A Hindoo might recover damages from a person who had injured him by making him lose caste; but I do not think he would be able to maintain his case, if he were to sue the members of a punchayet for deciding that he should be excluded from the caste.

I have, more than once, had applications made to me for an order to be issued to the barber of a village to shave a poor wretch who had lost his cow by an accident. All my powers of Judge and Magistrate, ample as they were, would not have been sufficient to get a hair taken from his chin: the punchayet, if favourable, could have done the business at once. I think it likely that, in the instances to which I have referred, the unfortunate outcast applied to the court in despair, and that the punchayet had actually passed against him some such decision as this: "Sadoo (or whatever his name might be) tied his cow "to a stake, and when he was gone the cow entangled itself with the rope "and was strangled and so died, therefore Sadoo has lost his caste: the barber "cannot shave him, nobody can eat with him," &c. &c. With a condition, perhaps, that he might be restored, on laying out a certain sum of money in feeding the caste, and in giving charity to so many Bramins.

It is very natural that an Englishman should be shocked at such a sentence; but what appears absurd to us does not appear so to the Hindoos. That the punchayet is wise and powerful, for its own purposes and within its proper limits, I have not a single doubt; but I cannot think that it is a fit tribunal for deciding

ing questions relating to property and other matters, which come under the jurisdiction of our courts. The education and habits of those who compose it appear to qualify them perfectly for the discharge of their present duties, but nothing farther. Any interference of ours would, I think, be for the worse. Besides, the punchayet knows its own sphere, and I have no doubt that every attempt to extend it would fail. It seems quite futile to reason in our ordinary ways about these things; but when we find a Hindoo shoemaker, whom no force or persuasion can induce to mend a boot, only because a boot is not a shoe, we may doubt whether a punchayet would not refuse to decide upon a contract, merely because it is not a question of caste. But supposing it practicable to extend the jurisdiction of the punchayet, surely it would not be proposed to free this tribunal from all control of superior courts of justice. I conclude that some degree of regularity would be considered as necessary, so far at least as to admit of a revision, for the sake of seeing that the proceedings did not contain any thing grossly improper. Now I cannot conceive any mode by which it would be possible to fashion the proceedings of a punchayet, so as to give them any sort of order or regularity ; and if control could be established, the dread of responsibility and the terror of our courts would keep all respectable men away from the punchayet. I am further of opinion, that if the punchayet were left uncontrolled under so unnatural a change, it would soon become conspicuous, not only for irregularity and incapacity, but for corruption.

As for punchayet, considered merely as an arbitration, I see no reason why it might not be extended : that is to say, I think parties might occasionally be compelled to refer either the whole, or parts of their case, to arbitration.

I do not think it would be practicable to form any sort of punchayet into a court of ordinary jurisdiction, nor to establish any thing like a jury by punchayet. Individuals in suits can, without difficulty, find respectable persons who will act as arbitrators. The office is a friendly and respectable one, and good men are often found who will readily undertake it: but if the hand of power were to interfere, these men would shrink; nor could our Government hold out any inducement sufficiently tempting to induce proper men to act without liberal salaries, and a very expensive establishment.

I do not suppose it can be in contemplation to force men to become members of punchayets, as we do jurymen in England. Any attempt of this sort must of course be unsuccessful, as it would be a very odious innovation, and could not be enforced without oppression and all manner of abuses. It would make us extremely unpopular, and in my opinion would endanger the government.

4th Question.

The evils attending a total change in the judicial system would be so great, that nothing short of the most pressing necessity could justify any attempt to effect it. That the system itself is capable of melioration I have no doubt, though I should not be able to point out the best means. Amended forms of judicial process, alterations of rules in various ways, may be of service; but I think the only good practical principle of reform is to be found in an able, upright, vigilant administration of every part of the judicial system, at home and abroad. So great is the efficacy of such a principle, that it is doubtless enough to counterbalance the inherent defects of the system. It is sure to bring to light the true nature of things, to distinguish essential from contingent evils, to suggest the wisest palliatives for the one, and the best remedies for the other.

If the people were less litigious and more honest (and this would happen if they were improved by good government), there would be fewer causes; but if the contrary is the case, rendering the courts of justice more accessible, and less expensive, will only serve to make things worse. A great accumulation of causes is so enormous an evil, and so certainly generates its own increase, that unless it can be prevented by other means, the access to justice must be made difficult and expensive. But this is as much as to say, own your incapacity for that which ought to be the first object of good government, the proper distribution of justice. You admit that you cannot do justice to all, but you will do justice to as many as you conveniently can. Here is a manifest defect; and I think, to remedy it, you must not attempt perfection too rashly, but choose the least of the evils.

Keep

Keep down the business by faciliating the means of reducing it; but till you have done this, let not justice be made less expensive and more accessible. Lord Cornwallis, at one time, allowed all causes to be filed without expense: the consequence was, that the courts were soon overloaded. It was found necessary then to establish an institution fee with a retrospective operation. It would be curious to know the number then struck off the file in Bengal. in one court, I think, the number was fourteen thousand in one day.

The Sudder Dewanny Adawlut always expect the Judges to assign a reason when they have omitted to decide more than a certain number of causes in a given time. The reason which is assigned, nine times out of ten, is the pressure of business in other departments; chiefly in the criminal judicature, or the police. It is obvious then, that if by good police and diminution of crime you leave the magistrate more at liberty to attend to the duties of the civil court, you have advanced a step towards facilitating the decision of causes. In this way, as well as in others, it is plain that the reform of the civil department is closely connected with that of the criminal and police.

Look at our appointments of Assistant Judges and Assistant Magistrates, and Superintendants of Police, &c., all these are excrescences which have grown upon the system. They are, indeed, only contrivances to botch up and repair the decayed and decaying parts. Certainly there is much good in our system; but I cannot help thinking there is *something* wrong, when I look at the crowded jails, the heaps of causes, civil and criminal, the volumes of Regulations, the increased severity of the criminal law, the enormous expences.

The occasional reports of the inferior officers, whether on general questions, or on particular cases of moment which come under notice, are the chief sources of public information. The circular orders and the Regulations, with the minutes of the Members of Government, and of other superior public officers. These are official documents, in which all the information is embodied with the opinions of public men, and their conduct founded thereon. I think it is of the greatest importance, that proper care be taken to keep these sources of information free, disinterested, and unprejudiced; and that notice be taken, even in the highest quarters, in all instances when due attention does not appear to have been paid to them. The various degrees of merit and demerit, the contrariety of opinions, and the opposite statement of facts, which are to be found in these documents, shew, not that we can learn nothing from them, but that they require great discrimination, and cannot be done justice to without attention and deep study.

6th Question.

I think this is impracticable at present. To reduce courts would be to increase business, and to reduce salaries would be to bring in corruption.

7th Question.

With much good in the system, there are, in my opinion, indications of evil, progressively increasing evil. If the evil can be cured, the people will doubtless become as happy and good as a benevolent government can make them; but if the evil cannot be cured, I conclude that it will go on increasing, and the consequence must be, that at last the people will suffer the extremity of misery and depravity.

8th Question.

I suppose they would judge from experience. Now, though all prejudice must operate in favour of the native, I think it unlikely that any body would say experience has shewn the native Commissioners and the Darogahs to be more upright than the European Judges and Magistrates. But this requires further observation. I cannot think an Indian would confide more in an European than in a countryman of his own, if their circumstances were the same; but, in this instance, their circumstances are perfectly opposite. Every thing combines to make the European honest and independent, and the native the contrary: reverse their circumstances, and I have no doubt their conduct would be reversed. As it is now, the European judicial officer may, I think, be justly charged with want of ability. I mean this: things which relate to the ordinary transactions of life can be well understood only by those who are familiar with concerns of the same sort. A judicial officer in India is able, in proportion

proportion to his knowledge of the language, manners, customs, habits, prejudices, and other circumstances of the people. This sort of knowledge appears to me to be the most essential part of ability; and I think that our Europeans always have been, and always will be, mainly deficient in it.

9th Question.

For my opinion of the integrity of the natives, I beg to refer to my answer to the last question. In respect to diligence, I think they are entirely to be trusted. Some part of the administration of justice is now with great success carried on by natives exclusively: I mean that which is in the hands of the officers called native Commissioners. But their decisions are subject to revision by the European Judges; and if it were otherwise, in the present state of things, I think the native Commissioners could not be safely trusted.

10th Question.

I cannot answer this question, nor the twelfth, with any sort of accuracy

11th Question.

Though I would not, by any means, now recommend the absolute subversion of Lord Cornwallis's system of police, I certainly think it had a radical error from the first. It was intended to be independant of the natural power and influence of the country, and to rest wholly on the Government. This I conceive to be essentially wrong; and as far as I know, the same has been the opinion of almost all the judicial officers in Bengal for years past. But if it is to be understood that the Bengal Government have adopted the principles laid down in a paper of their Secretary's, which is printed in the Fifth Report of the Committee of the House of Commons, I cannot help thinking they are in a fatal error. In that paper an opinion is maintained, that no system of police can be good, which is not founded on espionage. It will be for the authorities at home to consider the nature of this Goyendah system, as it is called; to observe whether all the good that has been done in the endeavours to put down dacoity, has not been owing, in great measure, to the uncommon degree of vigilance and activity which has been so laudably exerted by Government and its officers, and whether the enormous evils with which it has been attended have not been entirely owing to the encouragement given to Goyendahs.

The question about Goyendahs is not new; and as it may be supposed that the late agitation of the matter had a tendency to increase prejudices, I shall avoid all further allusion to recent events, and only add, that I made a statement regarding Goyendahs in my report on the Calcutta circuit, at the end of 1807, long before the disputes in question arose. To this statement I would beg to refer, if any thing more were required of me on this subject.

I will say, generally, that I think the following points essential to the good of the police in Bengal.

That Goyendahs be extirpated, as far as possible; that all persons whatever be made responsible for giving efficient assistance to the police, according to their power and influence; that the police officers of every description be vigilantly looked after, and that a rigorous responsibility be exacted from them; that the control and superintendance of the police officers may have simplicity and unity. I mean by this, that every officer may know whom he is to look to, and who is to look to him, and that he may not be subject to clashing authorities.

I will add here, that in Bengal some of the public officers have too much, and others too little to do. Perhaps, by a more equal distribution of the labour more work might be done.

But it is very useless so propose plans in detail, till principles are fixed. For instance, if the approved system is to found every thing upon the employment of Goyendahs, to what purpose does one suggest that they should be extirpated?

13th Question.

The courts commonly recommend to parties to withdraw the suit, and to submit it to the decision of arbitrators: and this is frequently done in one of two ways: first, under a sort of arbitration bond, by which the parties bind

themselves to abide by the award of certain persons; secondly, under a Razeenamah (or some such deed), which sets forth that the parties have agreed together, and that the plaintiff has withdrawn the suit. It often happens, that in a deed of this nature the parties declare their intention to submit the decision of their case to punchayet. Then the term punchayet will be taken in the limited or in the extensive sense, according to circumstances. But the question seems to point to the punchayet as if it were a regular constituted tribunal. I beg leave to say, that I know nothing of the existence of any such court.

(Signed) E. STRACHEY.

Hill Street, 18th February 1814.

Supplement to my Answers to the Questions put by the Special Committee relating to the Jndicial System in Bengal.

That great good is done by the judicial system in Bengal, nobody denies. Whether there is a preponderance of good or of evil, nobody proposes to overset it there. Few men think it ought to be rashly introduced into new countries. Great difficulty will, no doubt, occur, as to the places in which it has been introduced but a short time. At all events, it is necessary to consider, first, what should be done for the improvement of the judicial system in Bengal; secondly, what is to be particularly avoided in introducing *any judicial system* into new countries; and thirdly, what is to be done in those places where the system has been established but a short time. For all these questions, it is of consequence to take a view of the abuses which have actually grown up with the system in Bengal. Experience is better than speculation for discovering its true character.

By way of some help towards the discussion of this interesting and extensive subject, I here give extracts from public letters which were written by me in Bengal, under the *pressure* of the abuses themselves (if I may use such a phrase). To two of these extracts are annexed the opinions of the Nizamut Adawlut and Government, on the matter referred to. On the other extracts I had no opportunity of learning their opinions.

(Signed) E. STRACHEY

Extract of a Report on the Calcutta Circuit, in the Year 1807, relating to Abuses growing out of the System, with the Opinions of the Nizamut Adawlut and Government thereon.

The principal offences that are tried by the courts of circuit are dacoities. I will venture to affirm, that full half these cases are conspiracies. The greatest pains are used, at first, to induce a belief that not a fact respecting a robbery has transpired; and after a considerable lapse of time, the prosecutor, his informer, and his eye-witnesses, stand forward with a great body of proof against a number of individuals. These conspiracies are sometimes founded in truth, and sometimes false, and most frequently they are in part true and in part false. The ability with which they are conducted in some zillahs is wonderful; so much so, that nothing but the closest attention and patience can detect them. The natives consider the prosecution of dacoits to be a formal art; they do not conceive that they have simply to state the truth, but they have to arrange an artificial complicated process, the object of which is not to develope the truth, but to convict the accused. In consequence of this mode of proceeding, it happens too often that falsehood and truth are so mixed that they cannot be distinguished, and the whole falls by one part of the story casting discredit on the other; then the guilty escape. I think it is of the highest importance to inquire into the causes why truth is so seldom found pure in our courts, and whether it is not possible to find some remedy for the evil complained of. Among many other causes, there are three which appear to me to demand the attention of the Nizamut Adawlut: first, our rules about oaths; secondly, the encouragement we give to Goyendahs of different sorts; thirdly, the vast extent to which dacoity prevails.

Such

Such is the terror of the oath, that no respectable person will appear in our courts as a witness, if he can help it. My own little experience enables me to say, that it is common for families, sometimes even whole villages, to fly at the apprehension of being named as witnesses. I have often known people cry and protest against the injustice of others who have accused them of being witnesses to a fact; and they declare that they are innocent of the charge, with as much anxiety as if they were accused of felony. Some men refuse to swear from conscience, and others from pride. Whatever may be the orthodox opinion of the Hindoo theologians, the people at large do certainly consider that the taking of an oath on the Ganges water is a spiritual offence of the most horrid nature, which consigns them and their families, for many generations, to damnation. With respect to those persons who do not make it a point of conscience, it must be admitted that, to appear in one of our courts as a witness, is in the highest degree disgraceful. In short, the very fact of a native having taken an oath in one of our courts, is a presumption against the respectability of his character or against the purity of his conscience. If any doubt is entertained of the truth of these facts, I can only say that I assert them on the grounds of my own experience, and of the best information which I have been able to collect from natives as well as Europeans. I suppose that the evils are acknowledged to exist to their fullest extent, but that they are considered to be necessary evils. The courts have now authority, in certain cases, to exempt persons from swearing. This is something, but it does not appear to me to be sufficient. If the corporal oath, in the form now used, does tend to banish truth from our courts, and if it is liable to the objections I have stated, I know no reason why it should not be abolished altogether. The imposition of an oath on a man who believes that by taking it he brings damnation on himself and his family for many generations, appears to me to be a mode of finding out truth not very different from torture.

In my letters from Jessore, I complained to the court of the great evils to which the country was exposed by the machinations of Goyendahs. I apprehend that the court must be sufficiently aware of the mischiefs which Goyendahs are able to effect, if they are not properly checked. They know that the issue of all proceedings in our courts depends on the depositions of witnesses, and they have an easy method of quashing a prosecution. They have only to terrify or keep out of the way of the prosecutor and his witness. For this purpose, they accuse some of them or their friends of dacoity, and immediately get them imprisoned at a distance. Under pretence of going to the mofussil to apprehend Dacoits, they seize a few more of the prosecutors or his witnesses, and plunder them. Most of the remaining witnesses fly the country: the few that stay are intimidated, and dare not tell the truth in a court of justice. If such wretches as the Goyendahs are protected and encouraged by the Magistrate; if they have contrived to corrupt or to intimidate the Omla and the police Darogah; if they are allowed to go into the country with officers of the court, and armed men, under their authority, their influence becomes truly formidable. At the Thannahs they have persons to fabricate and witness confessions, and to do such other acts as may be required. Many of the Darogahs are either corrupt or idle, and a Goyendah establishes himself at their stations with great ease. The village Chowkeedars, who attend at the Thannahs, naturally fall under the influence of the Goyendah; they assist him in the mofussil, and he is supposed to protect them at the Thannah and at the zillah station. By means of them he implicates innocent persons in dacoities, while his own name does not appear. I believe it is admitted by all persons of experience, that the depositions of eye-witnesses in cases of dacoity, is the worst sort of evidence.

Such is the opinion of intelligent natives, who, best knowing the manners and habits of their own countrymen, are certainly the best judges of the subject. The eye-witnesses are generally Chowkeedars, a sort of people that is particularly subject to the influence of Goyendahs. The Chowkeedars are, for the most part, either dacoits, or somehow connected with dacoits, or idle dissolute fellows, and it is not difficult for a Goyendah to persuade a person of this description to forswear himself. Certainly the evils of the Goyendah

system

Answers to Court's Queries.
E. Strachey, Esq.

system do not exist in all zillahs in their full extent, but they do in some. There is not a zillah in this division, where Goyendahs do not appear in some shape or other; and I think it would be of great advantage to the community if they could be rooted out.

(Signed) E. STRACHEY.

On this part of the report the Nizamut Adawlut made the following observations.

The court concur in opinion with the Acting Judge, that charges of dacoity are often founded in conspiracy, and supported by false accusation; but observe, that the local inquiry directed in Section 18, Regulation IX, 1807, may be expected to have a material effect in preventing or defeating such conspiracies in future. The provisions contained in Regulation II, 1807, for the more effectual punishment of perjury and subornation of perjury, will also, it may be hoped, have the same beneficial tendency.

Without contesting the fact, that the respectable inhabitants, Mahomedan as well as Hindoo, still entertain a strong prejudice against taking an oath, the court are not aware of any provisions for dispensing with it, which could with propriety be adopted, in addition to those already made by the Regulations. The court are further of opinion, that though the oath were dispensed with, many of the natives would have nearly the same objection to attend and give their evidence in the public courts of judicature.

The court admit that Goyendahs, spies, and informers, are capable of doing great mischief, if not watched and controlled by the magistrates, and their police officers. But considering the present imperfect state of the police, the little information which the officers maintained by Government possess of the characters and conduct of the people resident within their respective jurisdictions, and the inconsiderable aid which is afforded to them in this respect by the landholders and farmers and their dependants, the court are of opinion, that it would not be expedient to discourage altogether the description of persons called Goyendahs, who, when vigilantly looked after, and punished upon proof of assumption of authority, or any other misconduct, are useful instruments in discovering and apprehending robbers.

The Government concurred generally in the sentiments expressed by the Nizamut Adawlut, but took no particular notice of the matter.

(Signed) E. STRACHEY.

Extract of a Letter to the Nizamut Adawlut from the third Judge of the Moorshedabad Circuit, dated Rajeshahy, 26th June 1808.

I trouble the court with this long statement respecting ...., not as a solitary instance of a bad Darogah and a bad Foujdary Omlah,* but as a specimen of that system of police, which in its abuse encourages all sorts of crimes, protects robbers and murderers, and throws every obstacle in the way of justice. The court will observe, how much it is the interest of the corrupt police officers to make the business of the courts extensive and complicated. The profits of the office of a police Darogah arise chiefly from the number of persons whom he can bring within his gripe. Prosecutors, witnesses, accused, all supply him with plunder; and the Omlah, where there is more business than the Magistrate can do, contrive to bring forward, or keep back, whatever best suits their purposes.

How skilfully this work is conducted at Nattore! The total number of witnesses summoned to the court of circuit this sessions was 3,568; of these between seventeen and eighteen hundred were actually sent in. The difference affords a happy selection for the police Darogahs, for the rich will *pay* high for exemption.

Another

* Officers of the criminal court.

Another Extract from the same to the same, dated Rajeshahy, 9th of August 1808.

Owing to the oppression and extortion of Darogahs, and some other causes, of which there are daily indications in our courts, it is probable that there are many dacoities concealed even from the Darogahs. A man whose house has been robbed being asked why he did not give information at the thannah,* commonly makes an answer like this: "I am a poor man, all my property "was taken, my wife was burnt; I was in great distress, I could not attend "to any thing. Besides, if I had reported, the Darogah would have come to "make a sournthall,† and I could not bear the expense." That a man is obliged to pay for having his house robbed, seems to be considered as a thing of course. The Darogahs often evince a great degree of activity in catching these poor sufferers. This prosecution in the mofussil,‡ and the tedious attendance at the Foujdary and the court of circuit, together with the terrors of the gunga jul,§ and the vengeance of the dacoits, present a very formidable train of misery for the anticipation of a man who has been robbed. He justly considers the robbery as only the beginning of his misfortunes, and it is no wonder he is reluctant to give information. Besides, the individual robbed is not the only sufferer; the other villagers must often bear their share of the subsequent grievances. Hence combinations to conceal dacoities.

The release of professed dacoits at the thannah, at the court of the Magistrates, and at the court of circuit, is perhaps the most serious of all the causes of concealment. Indeed, the mischief occasioned by a few cases of this kind is incalculably great in various ways, and the higher the authority from which the criminal escapes the greater the evil. Dacoits are often taken to the thannah only because of their notoriety, and there is reason to believe that many who can pay well are released there. I believe, too, that charges of dacoity are occasionally changed at the thannah into trifling cases: a new arzee‖ is given, the affair is compromised, and the prisoners are released, or the case is entirely suppressed. The release of dacoits by the Magistrate or the court of circuit can never take place, but from inattention or from difficulty of conviction. I hope it does not often happen; but that it does happen sometimes is certain.

(Signed) E. STRACHEY.

Extract of a Report on the Moorshedabad Circuit, in 1808, *relating to Abuses growing out of the System, with the Opinions of the Nizamut Adawlut and Government.*

There are obstacles to the suppression of dacoity, originating in the Regulations and in the nature and practice of our courts, and the state of things which has resulted from them. How many dacoits, and amongst them, notorious sirdars, are imprisoned, till they give security, without a single offence being proved against them? This is one very plain and striking mark of the impotence of the way we take to prevent crimes and to bring criminals to punishment. The regularity of our forms, and the supposed impossibility of convicting an accused person but by the evidence of eye-witnesses, the badness of our police, the great extent of dacoity, the difficulty of apprehending and convicting dacoits, the fear of the depredations of the dacoits, in the first instance, and of their vengeance afterwards, all these things have contributed to raise up thousands of Goyendahs; wretches whose nominal business is that of spies and informers, but who are actually employed in conspiracy, subornation of perjury, and perjury. It is not to false cases that these men are confined. An opinion generally prevails in the country, that the assistance of an able Goyendah is necessary to the apprehension and conviction of dacoits hence they are very commonly, and in cases of dacoity almost universally employed

* The Darogah's police station.
† Local inquiry.
‡ The interior.
§ Ganges water on which witnesses and prosecutors are sworn.
‖ Petition of complaint.

ployed; and whenever they are employed, they do not scruple to supply whatever they consider to be defects in the evidence by some fabrication of their own, which they support with perjury, having previously tutored people to their tale. Unfortunately, among the great body of the people there are few who have any scruple to swear they have seen in the detail those events which they only believe generally to be true. If we consider the vast number of suits, civil and criminal, that are brought to trial every year, and the very large proportion of the population that is actually subjected to legal process, and of course brought into contact with Goyendahs, it will no longer be a matter of surprise that perjury should so prevail. We must not attribute this to the naturally vicious propensities of the people, but to the certain operation of institutions framed and continued without due regard to the nature and circumstances of the people. With much good there were, in our system, the seeds of many evils: these, instead of being removed as fast as they appeared, have been allowed to take deep root, and they still flourish most vigorously. That robbery and fraud did exist in the country before, I do not deny; but, instead of destroying, we have consolidated and cherished them.

In order to assist in discovering the degree of inconvenience suffered by the population of the country from our police establishments and our criminal courts, and to form, with other considerations, some criterion for judging of the aggregate good or harm resulting from them, I have collected at four of the zillahs in this division the following statements: first, of the number of criminal cases registered since the institution of the thannahs; and secondly, of the number of persons accused, prosecutors and witnesses, who have attended at the court of the Magistrate within one year.

Number of Criminal Cases before the Magistrates and the Police Darogahs, from 1793 to 1808, in four Zillahs.

Purneah	85,504
Dinagepore	123,857
Rungpore	63,689
Rajeshye	120.830
Total	393,870

Numbers of Prosecutors, Witnesses, and Accused, who attended at the Courts of the Magistrates in the Year 1807-8, at four Zillahs.

	Prosecutors and Witnesses.	Accused.	Total.
Purneah	7,112	3,732	10,844
Dinagepore	5,248	3,084	8,332
Rungpore	4,068	2,540	6,608
Rajeshye	10,344	6,234	16,578
	26,772	15,590	42,362

The court will observe, that these numbers are not the result of any vain speculation: the names of these 42,362 persons, and of the parties in these 393,878 criminal cases, are all upon record. The number of persons in attendance at the Foujdary is probably nearly the same, one year with another; therefore it may be reckoned that in fifteen years 635,430* persons attended at these four zillah courts on account of criminal prosecutions.

But as the cases settled at the thannahs are, in great porportion, more numerous than those which are settled at the sudder stations, it is plain that the number 635,430 expresses but a small part of those who have been concerned as parties or witnesses at the four zillahs, in the last fifteen years, I beg the Court to consider, whether, with reference to the above data and the estimated population of the country, it is not likely that in the last fifteen years individuals, at least equal in number to the whole of the inhabitants, have been concerned in criminal cases, as parties or witnesses; and whether it is not likely that

* 42,362+15=635,430

that the number of persons charged with criminal offences in Bengal, during the same time, must amount to several millions. To the above statements it would be curious to add another, shewing how many individuals have been concerned in civil suits, within the same time. The population of Dinagepore was stated, in a report of the Collector, six or seven years ago (I don't know on what ground), at 600,000;* and, at this rate, the population of these four zillahs together cannot, I think, be reckoned at more than 2,000,000 or 2,500,000. Of these numbers a certain proportion must from age, sex, infirmity, or other circumstances, be necessarily excluded from all concern in criminal prosecutions, whether as parties or witnesses. Deducting for these, and reckoning the average number of persons likely to be concerned in each case, the numbers who come in contact with our criminal courts will be found monstrously great, in proportion to the population. Then, if we consider the vast extent of dacoity, the number of persons convicted of crimes and the number confined for security, the number that escape conviction and the number that avoid apprehension, we cannot, I think, but admit that the tendency of our system is to generate crimes. From the escape of offenders and the multiplication of law proceedings are generated dacoity and perjury. These things get worse and worse: then severe laws are made, and things become worse; the laws are made more severe, and things are still worse: and if sufficient pains are not taken to understand the evil before the remedy is applied, what cure is to be expected? So thoroughly is the great body of the people infected with the vice which has been engendered by the contagion of our system, that in all disputes between great Zemindars, whether of contested property or quarrels arising on their estates, the decision of a case in our courts is a mere party question. For the most part, all the witnesses on both sides are perjured, and the principals are guilty of conspiracy and subornation of perjury.

On this part of the report the remarks of the Nizamut Adawlut were as follow. "Neither the regularity of established forms, nor the rules of evidence, as now "modified, appear to the court to have any improper operation in preventing "criminals from being brought to punishment. The forms in criminal pro-"ceedings, particularly, are, in the opinion of the court, as simple as possible; "and with respect to evidence in cases of gang-robbery, the court are not "aware that any kind or degree of credible evidence is, under the existing Re-"gulations, excluded from having due weight in the scales, whether against or "in favour of the party accused.

"Whatever may be the evils attending the employment of Goyendahs or "professed informers, the court have no reason to believe that any innocent "persons have, through their means, been convicted and punished as dacoits. "The assistance of an able Goyendah is often of great use towards the appre-"hension and conviction of the really guilty; and if employed with proper "caution, that description of persons may be made very powerful instruments "towards the detection and seizure of robbers.

"In regard to the third judge's supposition, that the employment of Goyen-"dahs is a chief cause of the great prevalence of perjury, the court observe, "that admitting the testimony of persons of this class to be at all times suspi-"cious, that it ought to be received with more than common caution, and that "perjury and subornation may, in many cases, be traced to them, Mr. "Strachey's general inference will still be inadmissible, since it is well known "that there is a district in the province of Bengal (Chittagong), in which both "Dacoits and Goyendahs are comparatively seldom heard of, but in which the "crimes of malicious conspiracy, perjury, and subornation, have nevertheless "long prevailed in an excessive degree. The primary cause of the great and "general prevalence of perjury in the province of Bengal, is rather to be "sought for in the spirit of litigation and insensibility to the solemn obliga-"tions of an oath, which from time immemorial have degraded the character of "its inhabitants.

"The Nizamut Adawlut are unable to give any decided opinion, in regard "to the conclusion drawn by the third Judge from the statement exhibited "by

* Should be 666,666, I believe; but the population is now not less than double what I have here stated. The original estimate was probably erroneous; accordingly, allowances should be made in my results.

E. Strachey, Esq.

"by him of the number of persons who have attended the courts of the Magis-"trates within the period of a year, as they are not informed upon what do-"cuments it has been founded. But the court observe, that if that state-"ment has been prepared from a reference to monthly registers, reports, or "calendars only,* great error may have crept into the calculation, from sup-"posing that all *have attended* whose names appear therein. Moreover it may "frequently happen, that persons summoned to attend the courts as witnesses "are not ultimately made to attend; and at any rate, in assuming the third "Judge's statement as a datum, great allowance is to be made for repeated "attendance of the same persons, particularly a certain class of litigants, who "may be said to spend their lives in attendance about the courts."

The remarks of the Government on the same part of the Report were as follow.

"The Governor General in Council considers the remarks of the Nizamut "Adawlut, for the most part, a sufficient reply to the observations contained in "this paragraph. Whatever may be the disposition of the people to litigation, "it does not follow, as supposed by Mr. Strachey, that the tendency of our "system is to generate crimes.

"To establish such a position, it would be necessary to shew that public "offences are more frequent at present than heretofore: an opinion which will "scarcely be maintained by any person who has informed himself of the former "prevalence of crimes, either in the Upper or Lower Provinces, under the late "native Governments, or of the murders, robberies, and every species of public "offence, daily committed in the territories of the existing Asiatic powers."

J. D. ERSKINE, ESQ.

J. D. Erskine, Esq.

Question 1st.

WHAT is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established in Bengal, and the provinces depending on it?

Answer.

I have a favourable opinion of the system of judicial administration established by the British Government in Bengal. The judicial functions of the Government have been separated from the legislative and executive authorities. The people have a free and easy access to justice and redress, and the courts are regulated by prescribed forms, essential to the due administration of the laws. Nor am I aware of any material objection to the constitution of the different courts of judicature. The European Judges are placed upon a liberal and independant footing, and a salutary control is maintained over the practice and proceedings of the inferior courts, by the establishment of courts vested with superior jurisdiction. I have no doubt as to the fitness of a system founded upon these principles.

With respect to the efficiency of the system it is very evident, upon a reference to the state of the business in the different courts, that generally the establishments are inadequate to get through the duty with a proper degree of dispatch

* It was not so made, but as follows. I found that every Nazir had a book, in which he entered different matters relating to his business. In this book was a column, containing the names of prosecutors and witnesses who actually attended: from this (for the criminal part only) the numbers of my statement were extracted. I am not aware that there is any material error here. As for the first statement (which is not noticed by the Nizamut Adawlut or Government), it is certainly not so accurate. It was formed thus. All cases which come before the Darogahs are numbered in order, and it is the same at the Court of the Magistrate. There is a regular register of these cases at every court and at every thannah. From the numbers in these registers my first statement was made. The inaccuracy (which I did not think of when I wrote my report) is this. Some of the Darogah's *numbered cases* are not, properly speaking, criminal cases: some allowances (say a reduction of one-tenth) may be made on this account. But there is no doubt that a great number of criminal cases go to the thannahs, which the Darogahs do not report to the Magistrate, and I am satisfied that, on the whole, the numbers given are considerably within the truth. Of course, this sort of calculation does not pretend to any great accuracy.

(Signed) E. STRACHEY.

dispatch, and that, from the consequent accumulation of causes, much embarrassment is to be apprehended to the due administration of justice. But unless the work which is actually done can be shewn to be superfluous, I see no other remedy for the evil than an extension of the system, by multiplying the judicial officers. If the judges are unskilful in the execution of their duty, this is an imperfection inherent in the system; and if the people are litigious, we must submit to the evil, though it may give us much trouble to satisfy their demands for justice.

The extension of our territorial possessions must have added very considerably to the labour of the superior courts, both civil and criminal; and it may be observed, that in countries of recent acquisition, the duties of the civil department invariably increase, as the people gradually become acquainted with our laws and familiar with our courts of justice.

Some augmentation to the judicial business may have been created by improvements introduced into the system. I particularly allude to special appeals, and other expedients which have been adopted for the purpose of rectifying mistakes or correcting erroneous judgments, in cases where regular appeals are not admissable.

But it is in the criminal courts where the pressure of business is felt most severely. So long as the police remains in its present state of inefficiency, and the number of crimes committed continue undiminished, no relief to the labours of this department can be expected to take place.

Until the system shall have been fully carried into execution, it is impossible to judge accurately of its effects. Much of the good it contains must necessarily be counteracted by the inefficient state of the establishments.

Our code of civil laws and Regulations requires revision and amendment. In some respects it is, I think, very imperfect. The people see the uncertainty of the law and the want of uniformity in all our decisions: hence no suitor, if he can sustain the expense, ever thinks of stopping short until he has taken his chance in every court of appeal, and gone through all the stages of litigation. Our courts of justice are not likely to pay much respect to precedents; but if the laws are clear and simple, they will furnish a sufficient guide to the Judges for the decision of every cause upon its own merits.

We have preserved to the natives of India their own laws, in all cases relating to succession, inheritance, marriage, caste, and other religious usages and institutions; but in matters of contract, the Judges are regulated in their decisions by the general maxims of justice and equity.

With the exception of the rules connected with the settlement of the land revenue, our own legislative enactments are few. Some rules have been passed regarding the interest of money, the attestation of bonds, and the redemption of mortgages; but our system of revenue has brought with it a train of laws and regulations, very materially affecting the condition of the landholders, and the great body of the people connected with the cultivation of the soil.

I hope I shall not be deemed presumptuous in expressing an unfavourable opinion of the settlement of the land revenue in perpetuity. I must confess that, to my judgment, it does not appear to be founded on principles of sound policy. The British Government has voluntarily relinquished the power of augmenting those resources, upon which alone its existence must depend; and that, too, in a country where, without unforeseen events, the gradual increase of prosperity and population must necessarily occasion a proportionate increase in the expenditure of every branch of the public service. The permanent settlement may, therefore, become the cause of serious embarrassment to the Government, and may even prove no boon to the people, should its effects be ever felt by them in a defective, because cheap, system of internal administration. If it be urged, that other sources of revenue are still open to the Government, this argument will, I think, be found fallacious. The simple state of Indian society furnishes few profitable objects for taxation, and innovations of that nature are peculiarly repugnant to the opinions and prejudices of the people. The late failure of the house-tax has sufficiently proved this fact. On that occasion I was present at Benares, and witnessed the alarming and

and serious discontent created by the attempt to carry that measure into effect. I do believe that, at no former period, was the public tranquillity ever placed in a state of more imminent danger. The details of that extraordinary proceeding are, no doubt, in the possession of the Court of Directors; but I cannot omit quoting the following passage from the petition of the people. "If "the tax be imposed, what with providing the means of paying it on the one "hand, and what with the apprehension of future innovation, from the inter-"ference of Government on the other, such general distrust will be excited, "that there will be no longer any reliance on the security of property." This was the universal sentiment which prevailed throughout the country, and which induced all ranks and classes of the community to combine in opposing the introduction of the tax, with the most determined resolution, until Government was ultimately compelled to relinquish the contest and abandon the measure as impracticable. The natives of India, like the subjects of every despotic Government, consider custom as the barrier against oppression; and if we would govern them in peace and tranquillity, we must beware of rash innovations, and conduct all our plans of improvement in a spirit of respect and attention to their ancient usages and established customs.

The permanent settlement has involved other important considerations. The land-tax, under the native Government, was regulated agreeably to a fixed proportion, calculated upon a valuation of the actual produce, and the amount was accordingly ascertained by an annual assessment. In adjusting the tax under the permanent settlement, the same proportion of the tax to the produce was, in the first instance, adopted by the British Government; but instead of the assessment being renewed annually, the amount thus fixed upon each village was declared unalterable, without regard either to the extent of the land or the future variations which might take place in the state of the cultivation. The original basis of the tax has been thus relinquished. The assessment is no longer proportioned to the produce; it is fixed upon the land in perpetuity, without containing any principle of equality whatever.

So great a change in the principle of assessing a tax of such magnitude could not fail to produce a material change in the state of landed property. Those villages which, at the period of the settlement, comprised the greatest extent of waste land, are now the most valuable; and there is, consequently, no uniformity whatever in the value of landed property, throughout any of the provinces into which the permanent settlement has been introduced.

Claims to remission of revenue, on account of drought, inundation, and other calamities of season, were abolished, in the expectation that the landholders would find a compensation for such losses, in the profits arising from the increased cultivation of waste lands. But many landholders possessed no waste lands, and others wanted funds for the cultivation of those they did possess. At the same time, the British Government adopted the plan of selling lands by public auction, for the recovery of arrears of revenue due from the proprietors; and by the indiscriminate rigour with which this measure has been carried into execution, so great and lamentable a change has taken place in the property and occupancy of the land, that in some districts scarcely an old Zemindar is to be found in possession of his hereditary village.

The permanency of the assessment has likewise occasioned the interference, on the part of Government, in the division of landed property. This measure has been deemed necessary for the security of the public revenue against disproportionate allotments by the proprietors. The separation of the smallest share is, consequently, attended with as much trouble and expense as a new assessment of the whole village, and from the clashing interests of the different parties concerned, so many difficulties are continually interposed, that sometimes a delay of years takes place before a division can be finally accomplished.

The protection of the several classes of landholders, tenants, Ryots, and other occupants of the soil, in the enjoyment of their respective rights and privileges, has always formed one of the professed objects of the British Government. Our system of laws, however, still remains extremely defective in that respect, and very little attention has hitherto been paid to the nature of the tenures of land peculiar to the different parts of the country.

Our

Our Revenue Regulations are also inapplicable to the state of landed property, as it subsists in a great portion of our recently acquired possessions. They are founded upon an erroneous assumption, that each village is held by a single Zemindar, or proprietor, and his subordinate leaseholders. But this species of tenure is limited: the proprietors of a village usually consist of a numerous class of sharers, holding separate possession of their respective shares, and contributing proportionably to the amount of the revenue assessed upon the whole village. I cannot here enter into any detail upon this subject; but it may be proper to observe, that the principal defect of our system consists in the want of rules for regulating the collection of the public revenue, and for defining the nature of the responsibility of each sharer respectively. The sale of lands for arrears being a measure of our own introduction, it becomes particularly incumbent on the British Government to render the rules for that purpose clear and explicit, so that each individual, who is likely to suffer in his property by their operation, may be fully aware of his predicament, and be enabled, if possible, to avert the occurrence of so great a calamity. At present, no regularity whatever is observed by the officers of Government in the collection of the revenue from the different sharers of a village. In the event of any individual sharer falling in arrear, the amount is recovered by the seizure and sale of the property of all the sharers indiscriminately. But the case becomes peculiarly harsh and cruel when the whole village happens to be sold by public auction, and the hereditary rights and privileges of a multitude of sharers are at once swept away without distinction. Such proceedings are to be deprecated, not only as oppressive and unjust, but as being also, in a high degree, impolitic. The villages in the Ceded and Conquered Provinces are all possessed by a race of warlike and high-spirited Zemindars. When one of these villages happens to be put up to sale, the difficulty of obtaining possession deters purchasers from readily coming forward, and it is usually bought for a trifle by some wealthy speculator, well acquainted with the support our Government is bound to afford him. Immediately to expel all the unfortunate sharers from the occupancy of their lands, would be hardly practicable; but even if such a violent measure were resorted to by means of military force, still it could not be effected without a previous struggle, and without placing the purchaser in a precarious situation as to the future security of his tenure. If the purchaser, therefore, is not compelled by actual necessity, motives of self-interest as well as personal safety invariably induce him to leave the Zemindars in the possession of their lands, and to content himself with receiving from them some increase of rent, which they continue to pay with much reluctance, under the terror of the British power. This state of things exists to a great extent throughout the whole of the Ceded and Conquered Provinces, and is daily gaining ground as villages continue to be sold. Under such a system, how is it possible that the people should be attached to our Government, or feel any interest in its support? Is it not natural that they should rather desire our extirpation, and be ready to seize every opportunity of shaking off our authority, and of freeing themselves from their present state of degradation, as Ryots, to resume their former dignity as Zemindars?

Before quitting the subject of the sale of lands, I must beg leave to notice a case which I think a very hard one. If any person has a claim pending in a court of justice, either for the whole or the portion of a village, and before the suit comes to a decision, the person in possession should fall in arrear of revenue, so that the village is sold by auction under the priority of title assumed by Government, the claim is lost, and the unfortunate claimant is left without redress, probably after having incurred a heavy expense in supporting the prosecution.

The Regulation authorizing the Zemindars to distrain the crops and other personal property of their Ryots, for arrears of revenue, has been very generally objected to, on account of the gross abuse to which it was liable. The grievance, however, was not so much in the operation of the Regulation itself, as in the inadequate means of of redress afforded to the Ryots under a wrongful attachment of his property; no other remedy being open to him, but that of instituting a regular suit involving much delay and heavy expense. I believe some amendments have been introduced to remove this defect, by a recent

recent Regulation passed since I left India. I hope the remedy is effectual, as the grievance was great. In the Ceded and Conquered Provinces, I do not think the practice of distraint is so frequently resorted to as in Bengal: it seems, however, to be gradually becoming more prevalent, as the people gain a knowledge of our laws. In cases of disputed boundaries, I have often seen that one party distrained the crops of the Ryots, after the other party had received the rents.

It appears to me, also, that the Regulation regarding the limitation of dates, in actions for real property, is very little applicable to the circumstances of some parts of our territories. To attempt the redress of wrongs committed more than half a century before the existence of our Government, in a country where all titles were determined by the sword, is surely as absurd as it is impracticable: it cannot possibly produce any good, but may be the source of much evil and great injustice. I should imagine, that the grievances of our own times might furnish sufficient employment for our courts of justice, without inviting the people to revive their antiquated feuds and dissentions.

I must beg leave to add, that the rigid and unbending principles of our system, which consider all opposition to positive law as equally culpable, are but ill suited to the ideas of a people unaccustomed to habits of regular obedience. Considerations of humanity and policy should, therefore, induce the Government to conduct all its proceedings in a spirit of lenity and forbearance, on the introduction of our laws and institutions into those countries which may have recently been placed under the British authority.

2d Question.

Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Answer.

I am not acquainted with any ancient Hindoo institutions, which I think could be substituted with advantage for any part of the British judicial system. But I must confess that my knowledge of the ancient customs of the Hindoos is extremely limited.

To all the courts of justice are attached Pundits, or Hindoo law-officers, who expound the Hindoo law on all points of a civil nature which may be referred to them by the Judges.

The British Government has adopted the Mahommedan code as the basis of the existing system of criminal law: but I see no objection to the general application of this system to Hindoos as well as Mahommedans, under the modifications which have been introduced into it by the British Government, and by which such parts of it as are either repugnant to the principles, or inadequate to the ends of public justice, have been altered and amended.

3d Question.

Can you state any particulars of the remains yet existing of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by punchayet?

Answer.

The only Hindoo institution of which I have any knowledge, is the punch or punchayet, which, I fancy, prevails over the greater part of India. This institution is a court or council, composed of persons chosen exclusively from any particular caste or profession. It is of two descriptions: one is formed of the most respectable persons of the caste, resident in the neighbourhood, and is assembled for the purpose of taking into consideration the conduct of any individual of the caste, in any case relating to religious usage, or for deliberating upon matters of any description affecting the general interests of the caste or profession at large; the other is assembled at the instance of any two members of the caste, wishing to submit any matter in dispute between themselves to the decision of a punchayet of their brethren. In the former case, I am not certain whether there is any particular form of election observed; but in the latter, no person attends excepting those specially invited to be members by one of the parties concerned, and each party is at the expense of maintaining the members whom he may have summoned during the sitting of the punchayet. The court is superintended by a president, called the mehto, who questions the parties, examines the witnesses, and delivers the collective

opinion

opinion of the court. No record is made of the proceedings; but I believe in decisions regarding lands, or other real property, the decree is sometimes committed to writing. This latter form of the punchayet is, in fact, a court of arbitration, to which the parties voluntarily resort, and which takes no measures to give effect to its decisions, should either of the parties decline to abide by it. When the general interests of the caste require a meeting of the punchayet, the authority of that court is absolute, and its commands are received by every member with implicit obedience. A very extraordinary instance of this nature took place in Benares, on the occasion of the house-tax, before noticed. Between twenty and thirty thousand of the inhabitants of that city, consisting of all ranks and descriptions, relinquished their occupations, abandoned their dwellings, and assembled in the open fields. Instead of appearing like a tumultuous and disorderly mob, this vast multitude came forth in a state of perfect organization: each caste, trade, and profession, occupied a distinct spot of ground, and was regulated in all its acts by the orders of its own punchayet, who invariably punished all instances of misconduct or disobedience on the part of any of its members. This state of things continued for more than a month; and whilst the authority of the British Government was, in a manner, suspended, the influence of the punchayet was sufficient to maintain the greatest order and tranquillity. Although the punchayet may be a powerful engine in the hands of the people themselves, yet I do not see in what manner it can be made subservient to the purposes of Government. It is a mere temporary institution, beginning and ending with the occasion. It is the tribunal for regulating the affairs of the caste, where our laws cannot interfere; and its jurisdiction cannot be extended, without entirely changing its character. Nor do I see any use in interfering with the punchayet, in its capacity as a court of arbitration. The general opprobrium attached to any party who may disregard its opinion, gives sufficient force to its award, without the interposition of Government, which might lead to abuse, if it did not operate as an entire check to the institution itself. It may be necessary to add, that the punchayet takes no cognizance of any matter, except between persons of the same caste or profession. Its jurisdiction is exclusively confined to members of its own class of the community. I know of no institution which can properly be termed a village court, which assembles at prescribed periods, for the purpose of hearing and deciding upon claims preferred to it, and which exercises any degree of general authority in the village.

Question 4th.

If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the expense of suitors; and, in general, what in your opinion are the best means of remedying any existing defects in the system?

Answer.

I think our system of judicial administration is susceptible of improvement. The establishment should be made adequate to the performance of the duty. To speculate upon modes of checking litigation is useless: complaints can be reduced in number only by removing the cause of grievance. By an efficient administration of justice, the people must be made to feel it their interest to act with good faith towards each other.

Regarding the expenses of suitors, I am of opinion that it should be reduced. To restrain litigation by imposing expense, is in fact to encourage injustice and oppression by rendering redress inaccessible. The law charges are felt with peculiar severity by the Ryots, and other poorer classes of the community. I see no good reason why any part of the costs should be paid in advance: let no charge whatever be defrayed until the cause shall have been decided. This seems to me to be the only plan likely to afford relief to indigent suitors, and to enable the poor to contend on a footing of greater equality with the rich. However much the expenses may be abridged, the present rule must still operate upon the partial principle of excluding those from justice who are unable to advance the charges.

With respect to the established forms of receiving, trying, and deciding suits, I do not think that they admit of being rendered more simple.

 Probably

Answers to Court's Queries.

J. D. Erskine, Esq.

Probably a further limitation of appeals might be effected, but the mere saving of trouble should not be placed in competition with the end of substantial justice. It is desirable, I think, that the rules regarding the admission of special appeals should be rendered more clear and precise. A good deal of unnecessary labour is produced, owing to the unskilfulness of the Judges in the practical use of these rules.

In the criminal department, I am not aware that the labour can be materially diminished. In certain cases the Magistrate might, instead of committing the prisoners to take their trial before the court of circuit, be authorized to try the prisoners, and to pass sentence, subject to the revision and confirmation of the court of circuit collectively: thus trials would be more speedily brought on, and witnesses would be saved the trouble of a second attendance. There are, in my opinion, strong objections to the measure of vesting the Magistrate with any extensive powers of passing final judgment.

But after trying every expedient, consistently with the due administration of justice, to reduce the business in quantity, I fancy we must, at last, resort to the measure of providing more judicial officers to perform the labour.

I do not think that any effectual assistance can be obtained from the European officers employed in other branches of the service. The Collectors in the Ceded and Conquered Provinces can have little time to spare from their important avocations, though probably the Collectors in the Lower Provinces of Bengal may have more leisure. By their situations, the Collectors are disqualified from the exercise of judicial functions, at least in all cases to which Government is a party; but in aid of the Magistrates, I think their services might be found very useful. I would therefore propose, that they should be appointed Assistant Magistrates.

I am of opinion, that more native judicial officers should be employed, and that their jurisdiction should be extended. Natives may be found not deficient in ability. They generally possess talents for business; and if their situations were rendered more respectable by competent salaries, I think they would prove not wanting in point of integrity. Nothing can be worse than the present system under which the native Commissioners or Moonsiffs are employed. They receive no salaries, but are expected to maintain themselves and their establishments out of the institution fee paid by their suitors. They are sent into remote parts of the country; and it is not surprising if, from the small and precarious nature of their emoluments, they should sometimes be tempted to abuse the powers with which they are entrusted. Instances of very gross abuse are not common; but they would be still less frequent, if the Commissioners were placed upon a more liberal and respectable footing. I should think that, if the institution fee were carried to the credit of Government, competent salaries to the Commissioners might be afforded, without incurring any very considerable expense.

Question 5th.	*Answer.*
What do you take to be the chief advantages and disadvantages of the British system?	I have little to say on these subjects, in addition to the observations which I have already made, in my answer to the first question.

One advantage of the British system of government consists in the steadiness and uniformity of its operation. The people, also, derive much security in their persons and property, from the executive authority of the Government and all its officers being rendered amenable to the existing laws.

Our judicial system contains a principle of equality, rather obnoxious to the feelings of the higher classes of the people; but in a country only recently emancipated from arbitrary authority, this must be the effect of any system which is calculated to protect the weak against the oppression of the strong.

In conducting the government of the country, and in exercising judicial functions, it is some disadvantage to us that we are foreigners, and can never acquire a very intimate knowlege of the habits, manners, and modes of thinking peculiar to the natives of India.

Question

Question 6th.

If you are of opinion that this system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts, or the scale of establishment, particularly in native servants and their allowances for those courts?

Answer.

I do not think that the expense of the system can be diminished; on the contrary, an increase of expenditure may probably become necessary. The courts do not admit of being lessened in number: they are already as few as possible. Nor can the scale of the establishments be reduced, without risking the purity and integrity of the public servants.

Question 7th.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Answer.

The object of our system being to maintain to the people their civil and religious rights and privileges, little change in the state of society can be expected to result from the operation of our institution.

In consequence of the continued sale of lands for arrears of revenue it appears to me that, in the course of no very distant period of time, almost the whole of the landed property will have passed from the ancient proprietors into the hands of merchants, bankers, and other men of wealth. This transition, though probably not unfavourable towards the improvement of the country, is nevertheless, in my opinion, much to be deplored.

Under our system of government, if the people are taught that they must obey the laws, they also learn that they possess rights independent of any superior authority. In their present state of political ignorance, we govern them with ease; but should they become more enlightened, it may be a question whether the change will contribute to strengthen our power, or to render it more precarious.

Question 8th.

Would the natives, in your opinion, confide more in the uprightness of European Judges than in Judges appointed from their own people?

Answer.

I am of opinion, that the natives would confide more in the uprightness of European Judges. I think the natives are inclined to distrust each other. I do not mean to say that purity, integrity, and impartiality in the conduct of a Judge, whether native or European, would not command respect and confidence; but it appears to me, that those qualities are more readily granted to an European, whose situation renders him apparently less subject to the influence of partial or unworthy motives.

Question 9th.

Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administration of justice; and how far, or more particularly, can any branch of the administration of justice be trusted exclusively to the natives; or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

Answer.

We have hardly given the natives a fair trial as Judges. They hold only subordinate situations, and are ill paid. Upon the whole, I have generally been satisfied with the conduct of the native Commissioners; but I do not think that, at present, it would be advisable to entrust them exclusively, to any great extent, with the administration of justice. The removal of European superintendence and control should be effected gradually. Let the experiment be first tried on civil suits to a small amount, and let the system be afterwards extended as the expediency of the measure may be suggested by experience.

Question 10th.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Answer.

In reply to this question, I can hazard only a vague conjecture. Mr. Colebrooke, I think, makes the population of Bengal and Behar to amount

to twenty-four millions, and within the same area there are I believe twenty-three zillah courts. These data will afford little more than a million of inhabitants, as the average of the population within the sphere of one zillah court.

In the Ceded and Conquered Provinces, the population of one zillah may be reckoned as about equal to that of one zillah in the Lower Provinces.

Question 11*th*.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient; or do you think it would be practicable and expedient to resort to any of the modes practised by the native governments, for maintaining the peace and order of the country?

Answer.

The system of police established by the British Government is, in my opinion, extremely defective and inefficient. No other proofs are necessary to evince the very bad state of the police, than the melancholy facts that the country continues to be infested by gangs of robbers, and that whilst the jails are crowded with prisoners apprehended on suspicion, very few, in proportion, are convicted.

It cannot be expected, that Government should be able to maintain in pay a body of officers, sufficient to answer all the purposes of police. Some aid must be obtained from the people themselves; and it is in the application of judicious regulations for effecting this object, that any system of police must principally depend for its success. If the people are destitute of moral character, we must beware of adopting a system of espionage; if they want public spirit, we must excite them to exertion for the general good by motives of private interest; and if their condition affords them no means of using those exertions with success, we must remedy the defect by a system of organization.

I think we have failed in obtaining the assistance of the Zemindars, principally from the circumstance of our Regulations being too general in their nature. There is no use in declaring that the Zemindars are responsible, unless that responsibility be clearly defined and well understood; and it is also useless to define the responsibility, unless it can be universally enforced with equal justice.

The Zemindars, or landholders, are of various descriptions; from the proprietor of a few acres, to the petty sovereign of many villages. Under circumstances so widely different, it is not easy to devise any general plan which shall have a uniform effect. The only suggestions which, at present, occur to me for the improvement of the police, are the following:—

Let each district be divided into small subordinate divisions, each containing, probably, about ten square miles.

Let the Zemindars of each division be declared jointly responsible for the maintenance of the police of that division.

Let the nature of the responsibility be clearly defined; and should a pecuniary fine be imposed, let it be levied from the different Zemindars, in proportion to the revenue assessed upon their estates, respectively.

The Zemindars should be empowered to apprehend offenders in the actual commission of crimes; and they should also be directed, in all matters relating to the police, to afford prompt assistance to the officers of Government.

According to this plan, the responsibility of the community will become efficient, where that of an individual is nugatory; and the Zemindars of each division will feel it their common interests to unite in their exertions for the support of the police.

So far as the services of the Pikes, or village watchmen, could be obtained, some arrangement for that purpose would also be extremely beneficial. But I fancy the nature and extent of these establishments differ very materially in different parts of the country.

The office of a police Darogah is a very important one, and, in my opinion, it should be rendered more respectable, by an increase of the salary attached to it.

Question

Answers to Court's Queries.

J. D. Erskine, Esq.

Question 12th.

Can you state what the limits and superficial contents were of the district in which you acted?

Answer.

I acted as Judge and Magistrate of the district of Allahabad; but I can form only a very inaccurate conjecture as to the superficial contents of that district. It might, probably, contain about four thousand square miles.

Question 13th.

Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit and submit it to the decision of the punchayet; or has the punchayet, at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

Answer.

In cases of partnerships, disputed accounts, or contested bargains and contracts, the courts, as directed by the Regulations, invariably recommend to parties to submit the decision of the matters in dispute to one or more arbitrators of their own election. The suit, however, is not finally withdrawn. The award of the arbitrators, together with all the proceedings, depositions, and exhibits in the cause, being delivered into court, the final decree is passed conformably with the award, and is carried into execution in the same manner as other decrees. The Judges are enjoined to encourage respectable persons to act as arbitrators. Under the preceding rules, it cannot well be said that the courts ever recommend to parties to withdraw the suit entirely, and submit it to the decision of a punchayet; but I have no doubt that if the parties, being both of the same caste, should be desirous of employing a punchayet of their brethren, instead of any other set of arbitrators, the court would not object to the election. This is the only form in which, I think, the decision of a punchayet could be recognized by our courts of justice.

(Signed) J. D. ERSKINE.

Sackville Street, Sept. 21, 1814.

ANSWERS TO COURT'S QUERIES.

MAJOR LEITH.

To the Chairman and Deputy Chairman of the Honourable Court of Directors.

GENTLEMEN,

I beg now to have the honour of submitting to your consideration some remarks upon the present Judicial or Adawlut system of India.

Answers to Court's Queries. Major Leith.

The administration of justice in India was, for some considerable time after our obtaining the government, vested in the hands of native officers: the abuse which this led to gave rise to the administration being placed, in a certain degree, under the inspection of Europeans. It is unnecessary here to retrace the various alterations and modifications which the system had undergone previous to the year 1793, when an arrangement was formed, under the orders of Lord Cornwallis, which has existed, with some few alterations, to the present day.

The general outline of that system may be said to be as follows:

That the judicial shall be entirely separated from the executive; that a gradation of four tribunals shall exist for the cognizance of the more important civil causes, a zillah court of one Judge, a division court of three, and an appeal to the Governor in Council, and finally, to the King in Council in England.

This arrangement has been so far since altered, that the sudder, or chief court in Bengal, has been now made to consist of three distinct Judges, not Members of Council.

Last appeal should, on principle, be to the Government of the country.

Upon the general outline, I would merely remark that, in every country, the ultimate appeal is to the Government of that country; and wherever the ultimate appeal lies, there the Government consists. Such was the ancient principle of appeals in Europe, and such is the principle of the English Constitution, by lodging our last appeal in the House of Lords.

Were the general superintendence of appeals to be left entirely to the Governor in Council, it might engross too much of their time, and would be, in other respects, exceptionable, but to remove it altogether from their inspection is to deprive the administration of justice of a salutary check.

It is necessary that a constant eye should be kept upon the fitness and improvement of the laws, which will never be so effectually done as by the Government of the country.

Judges are subject to prejudices, the same as other men; and a bad rule may come to be approved of by them, when it has either been proposed by themselves, or when it favours their conveniency in the dispatch of business. The presence of one of the Members of Council cannot particularly influence men, whose situation does not admit of improvement, and who are supposed to hold their places during good behaviour.

If the constitution of our Government does not admit of the occasional absense of one of its members, as President of the Court of Appeals, it would seem defective. His presence there is more essential than at either the Revenue Board or Board of Trade, inasmuch as the details of these Boards have been long settled and freed from all intricacy; whereas the judicial system is still in its infancy, and requires every means of support. This is more particularly the case as to Madras.

An

Answers to Court's Queries.

Major Leith.

Appeal to the King in Council defective.

An appeal from India to the King in Council in England must, on the first view of it, be exceptionable, merely in reference to the great delay it must occasion to the parties, as it can seldom terminate in a less period than twelve months. It is well known, that one great cause of litigation in India arises from the low interest we allow upon money. It is often to the advantage of a party to detain the property and contest the right when he is sure of being cast. How much this dilatory process of appeal must favour that disposition it were unnecessary to remark; but when it is also considered, that this appeal to the King in Council is from opinions of Causees and Pundits, upon points of Mahomedan and Hindoo laws, the unfitness of such a judicature is hardly to be described. Even in cases of our own law, the appeal to the King in Council has been long complained of by all lawyers, as a very defective mode of administering justice; what then must it be, when they have neither guide nor compass to go by?

No general change made in the civil laws of natives.

Some complaints have very recently been made against the judicial Regulations, as if a general change had been made as to the law of the natives: but the object of the system was not to alter, but to confirm and call into action the laws and usages of the country; and accordingly, as I had occasion to state in my report, on delivering in the Regulations for the Madras establishment, there are two principles of action incident to the constitution of the new courts of justice, one in reference to acts done before their establishment, the other in regard to acts arising after it. The first respects the old law; the second regards that to be established on the basis of the former. Acts done previously to the establishment of the system are to be judged of according to the law under which they were formed, unless where the same is notoriously contrary to the rules of natural justice. This is a leading principle in the new constitution of our Indian Government, and which will be found an index to the law of particular cases. A Cauzee and Pundit attend the courts, versed in the Mahomedan and Hindoo law, and the European Judge is supposed to pronounce the decision in reference to their opinions, on questions falling within their cognizance; and where he departs from such opinions in civil cases, he ought certainly to shew the authority on which he decides, as borrowed from other sources of the same origin.

In criminal cases the Judge is to pass sentence according to the Mahomedan law, under its authorized modifications; and if in any case not provided for by Regulations, he disapprove of the law, he shall nevertheless adhere to it, if it be in favour of the prisoner, and recommend to Government pardon or mitigation if it be against him, and shall propose a Regulation to provide for the case in future. (Beng. Ben. 1797, R. 4, § 4, Ced. Prov. 1803, R. 8, § 11.)

Code chiefly rules of court.

No new civil laws have been introduced, unless in regard to property or rights immediately derived from the Company's Government, and these naturally follow the principle from which they arose. The code, with the exception of the modification of the criminal law and the revenue regulations, consists almost entirely of rules for hearing and trying of causes, and is something similar to what is known to the English practice by the name of rules of court. The foundation of these rules for the order of hearing and trying suits were drawn out by Sir Eliah Impey, in the year 1780-81, with great clearness and perspicuity. A want of legal knowledge in the inferior Judges to combine and extend a principle to similar cases, has occasioned these rules to be multiplied by a number of needless explanations.

What the difficulties of Judges may be ascribed to.

The code has since gone on increasing, from time to time, with new rules and restrictions, until it has now swelled to the incredible mass of seven folio volumes, including that for Benares and Oude. But, on this subject, I shall take the liberty of remarking in another place. It were in vain, therefore, to seek in this code for the principles which are to guide the decision of our courts. The Hindoo and Mahomedan law must furnish these. But laws can only speak a general language, they cannot provide for all cases. The real difficulty that attends the administration of justice does not arise from the enacted or written laws, for one has only to refer to the statute or written code to know this: it is the intricacy of particular cases which forms the difficulty. Murder, by the English law, as by every other, is punishable with death; but the

Major Leith.

the particular circumstances which shall make a case amount to that description of crime, or shall bring it under the head of culpable or justifiable homicide, are of infinite variety, and cannot be reduced to positive rule. The art of the lawyer, therefore, consists in perceiving the analogies which distinguish one case from another, and which brings it under, or removes it, from the general rule. This consists in a sort of artificial reasoning or logic, as arising from a ready application of general principles, definitions, and rules of law, to the construction of the particular case; and it is this sort of learning that our Judges are, at present, of all others, the most in want of. If the decisions are wrong, the fault does not lie in the Regulations, but in the interpretation of the law by the Judges. If the best laws in the world were given to unlearned Judges, it would be just the same; and until some method is taken to remedy this defect, the various Regulations that are from time to time issued, will only increase the embarassment.

Legislative acts form but a small proportion of the laws of any state.

" It is to be observed, that the legislative acts of any state form a very small " proportion of its laws: a much greater proportion of them consists of that " explanation of the general body of the national law, which is to be collected " from the decisions of its courts of judicature, and which has, therefore, the " appearance of being framed by the courts. Voluminous as is the statute- " book of England, the mass of law it contains bears no proportion to that " which lies scattered in the volumes of reports which fill the shelves of an " English lawyer's library. Experience shews, that the provisions of law, on " account of the general terms in which they are expressed, or the generality " of the subjects to which they are applicable, have frequently an injurious " operation in particular cases, and that circumstances frequently arise for " which the law has made no provision. To remedy these inconveniences, the " courts of judicature of most countries which have attained a certain degree " of political refinement, have assumed to themselves a right of administering " justice, in particular instances, by certain equitable principles, which they " think more likely to answer the general ends of justice than a rigid adherence " to law; and where law is silent, to supply its defects by provisions of their " own.

" The very attempt to lessen, by legislative provisions, the bulk of the na- " tional law of any country, where arts, arms, and commerce flourish, must " appear preposterous to a practical lawyer, who feels how much of the law of " such a country is composed of received rules and received explanations. " The jurisprudence of a nation can only be essentially abridged by a judge " pronouncing a sentence which settles a contested point of law on a legal " subject of extensive application, or by a writer's publishing a work on one " or more important branches of law, which has the unqualified approbation of " all the profession." (Butler's Horæ Juridicæ.)

Decisions of the Judges should be published.

Under the impression of these truths, we would recommend that the decisions of our courts should be regularly printed and published, as in England.

Study of the civil law suggested.

It is not very easy to suggest such works on general law, as might prove of assistance to the Judges. It were endless to endeavour to point out any particular treatise, as more deserving of attention than another. In this respect, it would seem best to go to the fountain head at once, and propose the civil law as the great source from whence all the jurisprudence of Europe has been more or less derived. Sir Matthew Hale, however partial to the methods of English practice, has recommended the study of the Roman code, as furnishing the best explanation of the principles and grounds of law.

" One circumstance," says the writer above quoted, " may be urged, as an " unquestionable proof of the Justinian Collections possessing a very high de- " gree of intrinsic merit. Notwithstanding the different forms of the govern- " ment of Europe, and the great variety of their political and judicial system, " the civil law has obtained either a general or a partial admittance into the " jurisprudence of almost all of them; and where it has been least favourably " received, it has been pronounced a collection of written wisdom. This could " not have happened, if it had not been deeply and extensively grounded on " principles of justice and equity, applicable to the public and private concerns " of mankind, at all times and in every situation."

The digest which seems the clearest and most valuable part of the Roman law, is contained in one octavo volume. Copies of it are not, however, very easily found in England: it might, therefore, be printed in Calcutta at no great expense, by obliging each of the Judges to bear a certain part of the charge for doing so.

I am aware that this proposal is not likely to meet with general approbation. Marquis Wellesley, however, had already recommended to the students of the college of Fort William an attention to the writers on natural law; and during my stay in India, many of the young men complained to me of the difficulty they found of obtaining works of that kind. There is, certainly, no other work that contains an equal proportion of general truths, axioms, and rules of natural equity, by which the mind may be furnished with the means of distinguishing right from wrong, and administering justice with all the advantages of a cultivated understanding. It has been said by some, that treatises on law would only confound and embarrass the Judges: it might with equal truth have been said, that treatises on architecture would only embarrass an archhitect. The first rudiments in every science are difficult; the first rules in arithmetic distract the beginner: but every thing yields to application, and it is a sufficient answer to say, that it is necessary for the Judges to acquire a general knowledge of jurisprudence, and it is also their duty to do so. Why should the Judges in India be less instructed than in other countries? They are men of education, of family, of a respectable rank in society, and are paid for their labours beyond that of any other class of men, perhaps, whatever. All these ought to prove so many stimulants to exertion. The respectable works that have been published by the two Messrs. Colebrooke and Mr. Harrington, evince that there is nothing to prevent excellence in their profession, where individuals are disposed to cultivate their talents.

Books, indeed, would not entirely supply the defect complained of in the Judges. They can never become able by the labours and learning of others: they must create their own powers, and acquire the faculty of judging by the exercise of their own minds. In this respect, it is to be regretted that they have so little opposition to struggle with. The keen attacks of advocates, the eye of the public, and the jealousy of their brothers on the bench, stimulate Judges to exertion in Europe, and rouse them to watch their characters and repose by a constant discharge of their duty. But all these motives to action are wanting in India. Judges decide, through the medium of a foreign language, before pleaders whom they do not respect; and removed from the public eye, they are secure, in the indolence of their brethren on the bench, from rivalry of excellence. Where so many motives are wanting to a vigilant discharge of their duty, what must the case be, if inducements are held out to carry them astray?

These obstacles can only be removed by appointing European pleaders to the superior courts, by throwing open the proceedings to the public eye in printing reports of the decisions, and by stimulating the ambition of the Judges by a careful distinction of merit.

The establishment of Vakeels, or black pleaders, was inevitable at the introduction of the system; there is perhaps, however, no part of the judicial establishment which has been attended with worse consequences. They are, in general, exceedingly illiterate, and their situation gives them various opportunities of committing abuses which are not very easily detected. In particular, they have been accused of promoting litigation, by holding forth false hopes and promises of success to their clients. Their habits of intercourse with the natives, and their being, in a manner, the only persons who are acquainted with the regulations, makes it easy for them to do so. It cannot be supposed that they are respected by the Judges, nor that they should ever oppose a European on the bench with spirit or success. One great advantage in a regular society is, that a person may always be well advised, whether it is prudent to appeal to the law or not. Justice begins here. This is the first step, and it is material that it should not be a false one: the second is, that the cause should be laid before the Judge with every circumstance of advantage: thirdly, that the advocate should watch the conduct of the Judge during the trial, protest against irregular proceedings, and be ready to appeal from a wrong decision.

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To discharge these duties with success, requires a degree of spirit and intelligence which we shall in vain look for in a black man. The advantages of intelligence and ability in the management and pleading of causes at the bar, are little less essential to the public than that of learning in deciding them on the bench; the one always produces the other, so that they may be said to be inseparable, and they have accordingly been found in similar proportions in the same age and country. There was never a learned bench that did not, at the same time, exhibit an accomplished bar. Sulpicius was a Judge in the same City where Tully was an advocate; a Mansfield decided the causes which an Erskine pleaded; and the chancellor Harley, in France, was contemporary with D'Aguessau. A well-informed advocate will prevent litigation, by discouraging ill founded complaints; he will shorten the process, by seeing where the stress of the question lies; and whilst he represents the interests without the passions of his client, he will instruct the ignorant judge, and operate as a check on the forward and corrupt witness.

Establishment of European advocates from the civil service suggested.

I am so persuaded of these truths, that I do not hesitate in saying, that one great cause of the litigation and delay in law-suits has arisen from the circumstance of the native pleaders, and that the greatest benefit that could be bestowed on the system would be their abolition, from the principal courts at least, and the appointment of European advocates in their stead. Nor need this change entirely remove them from the management of the business: some description of this class of people will always be necessary as a sort of attorneys, the function best qualified for them, and which their designation (Vakeel) implies.

The selection of persons for the station of advocates would naturally be made from the civil service. Their office might, at first, be awkwardly discharged; but, like other advocates, they would learn their duties by practising them, and in the discharge of them at the bar, they would come every way better qualified for their functions on the bench, when they should succeed to the rank of Judges.* No objection occurs why this arrangement might not be immediately adopted at the Sudder Dewanny Adawlut in Bengal.

At Madras we are not, I am afraid, as yet ripe for this measure; nor will, perhaps, be so for some years.

A reporter in Bengal.

Judgment of the Madras Sudder court, how proposed to be drawn out.

A reporter, it is understood, has been appointed to the Sudder Dewanny Adawlut in Bengal; but as I am not acquainted with the method in which the duty is proposed to be conducted, I cannot presume to offer any opinion on the measure If I am rightly informed as to the principle on which judgments are drawn up by a court of ultimate appeal, forming, at the same time, part of the government of the country, the reasons for the judgment are never set forth in the sentence itself; for as each of these reasons and opinions would, in fact, form so many laws, too great caution cannot be used in entering into discussion of collateral points, more especially where the Judges are not perfectly familiar with legal distinctions. The decisions of the House of Peers, accordingly, merely express the order of the House, that the original judgment on the appeal should be confirmed or reversed: a form of proceeding which would seem very proper for our new Sudder Adawlut at Madras, at which a member of Government presides; for it is one thing to judge right, and another to express a satisfactory chain of reasoning for the judgment.

Reporter at Madras.

In the first stages of the Adawlut system in Bengal, a reporter was appointed to the Sudder Dewanny Adawlut, whose duty it was to assist as a sort of legal adviser to the court, under particular rules for that purpose. I had the honour to receive a similar appointment to the same court at Madras. The duties I had in view were generally in reference to the cause, to state the nature of the demand, the facts admitted and disputed, the points of law arising out of those facts

* The advantages that a cause derives from the management of a person accustomed to habits of this kind is hardly to be believed, in the very great dispatch and quickness with which it is brought to decision. There was long a prejudice in the army against counsel attending courts martial; but I found, from experience, the process so much shortened by their presence, that I have always encouraged their assistance to the prisoners. A trial which would, perhaps, have occupied four days, has by this means been often finished in one.

facts, the evidence by which the disputed facts were supported, and the legal arguments adduced upon the respective points.

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It was my intention to have printed and sent such reports into circulation, for the information of the Judges at the different stations.

Bacon, in his essay for the constitution of courts, seems to approve of a plan of this kind. "Some method should be fallen on for clearing up the particu-" lar doubts which occasionally arise; for it is hard that they who desire to " avoid error should be left entirely without a guide, and that they should be " involved in difficulty by whatever course they may take, without any means " of knowing the law before the case is determined."

A similar office appears to have been attached to the parliaments or ancient courts of justice in France. "In the course of this proceeding," observes a legal writer, "as in all others, the interests of justice might suffer, from the " personal carelessness and ignorance of the officer into whose hands they " were committed; but the general tendency of the proceeding was manifestly " to secure a deliberate and adequate attention in the Judge, to the arguments " which those to whom the interests of the parties were confided might deem " it material to adduce."

The summing up of the evidence by a Judge, in our English courts, to a jury, proceeds upon much the same principle: he states the law generally, recapitulates the circumstances of the case, and leaves the conclusion to the discretion of their own judgment.

In the crude opinions, as given by some of our young Adawlut Judges, and their, I may say, total want of any elementary books, a careful examination of their judgments, pointing out the steps that have led to their error, and the principles which they ought to have kept in view, may in some degree facilitate the better decision of causes.

Difficulties of obtaining legal knowledge.

When we consider the frequent alterations that take place in every country in statute law, the infinite number of books that have been written on the subject, the various public schools that have been erected, the private readings of lectures which lawyers institute among themselves, and the practice that is, after all, required to arrive at any perfection, it cannot be denied that the advancement of jurisprudence requires every help and assistance that can be afforded it.

A monthly legal publication for the three presidencies proposed.

In this view I had, at one time, conceived the idea of establishing at Madras, in conjunction with some professional friends, a kind of legal magazine, to be published monthly, and to contain discussions on subjects of general jurisprudence, extracts from the writers on civil law, with such information on points of Mahomedan and Hindoo law, as our correspondents amongst the na tives or Europeans might be able to furnish us. Such a work would have been useful in another point of view, as it would have afforded a solution of queries on points of practice and occasional difficulty in the discharge of their duties, which the Judges have, at present, no method whatever of obtaining. My missions to this country suspended the plan for the moment; but my stay here has furnished me with a valuable addition of materials for such a work, in the collection of civil-law books and tracts on jurisprudence, which I have been at great pains in making from all parts of the kingdom. But to ensure success and respectability to such a work, the countenence of Government is necessary, in so far that every person in the judicial line of the service, at the three presidencies of Bombay, Madras, and Bengal, should be obliged to take in the magazine, which shall be forwarded free of postage, and furnished at a moderate expence. A few copies might also be taken by Government.

To preserve regularity in the discussion of legal subjects, and to prevent the introduction of crude and hasty essays from correspondents, the general amount only of such should be introduced, and the whole prepared for the press under the inspection of one or two persons to be appointed as editors. No reference to be allowed, in regard to persons or things immediately before the courts for trial,

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These outlines, with such other modifications as further consideration would suggest, might furnish a work which would essentially contribute to the dissemination of legal knowledge: nor, as I have reason to believe, would the assistance and patronage of some in high judicial situations in India be wanting to its encouragement. We can observe the influence and tone of thinking which a new literary journal will even give to the public mind in England, where all conceive themselves already sufficiently instructed: what then might not its effects be amongst a society who acknowledge their want of intelligence, and who are desirous of nothing so much as information on the subject of their profession?

Lest such a scheme might, to some, carry the appearance of presumption, I shall only add, that my object is less the insertion of original composition, than a careful selection of such pieces from legal writers as are best calculated to assist the young student. Such as the cases and questions in the civil law, published in 1652, in English and Latin, by Zouch, professor at Oxford, but which are now become exceedingly scarce; the elements of jurisprudence, by the same author; the definitions and axioms of the Roman law, with the commentary of Blassius and the aphorisms of Carvisins.

Being satisfied that nothing need be added to what is already written on the subject of general jurisprudence, by men whose names carry the stamp of authority, and that a work of this sort is never so likely to succeed as when it shall be the least connected with the person and feelings of the editor himself. A want of attention to this circumstance occasioned the failure of some literary journals in Calcutta, otherwise of great merit, by involving the authors in personalities and dissention.

Translations from the Sanscrit.

Connected with the improvement of Indian jurisprudence an observation occurs as to the Hindoo law, the neglect of which has sometimes led to error. Different systems of Hindoo law have been of late rescued from long oblivion, and translated from the Sanscrit into English. Such researches are no doubt beneficial to our stock of jurisprudence, and ought to be encouraged; but we must not expect to find in them a given rule for the guidance of our courts, because these works are of Hindoo origin. Many of these were systems of law confined to particular countries, or of so remote an origin as to have been long lost sight of as a principle of action to the people of Coromandel. It is immaterial, therefore, what the ancient law was. Where a rule of decision has existed and been long in general observance, men act from expectation: they form their agreement and shape their conduct in reference to the received usages of the place they live in, and have accordingly a right that their actions should be judged of by these and these only. The Sanscrit works alluded to are to be regarded as rather containing principles of Hindoo jurisprudence, than as the particular law of the people; and the rule of decision, we are told, is not to be assumed from the abstract principle, but from the existing law. The use of such ancient works is of much the same kind as that of the civil law in most countries in Europe; and even in our own courts it may illustrate and explain the existing law in a doubtful case, but cannot controul or set aside its absolute enactment.

Criminal Law.

Some material alterations have been made in the criminal law which we adopted from the Mahomedans, because we found it the law of the country where there existed any; for on the coast of Coromandel the punishment of crimes by any form of public trial had been long disused, except in the factories immediately subject to the British Government. It cannot be regarded but as a barbarous and defective system, and many persons have thought that it might have been better to have rejected it altogether, and to have adopted the English criminal law at once, with some peculiar modifications. We have, however, done what is nearly equivalent: we have modified the Mahomedan law upon the English, so that it is now stript of most of its absurdities and cruelty.

Punishment of forgery.

This is, perhaps, the place to observe, that the great extent of paper currency which now prevails throughout India might make it expedient, at some season of more tranquillity, to render forgery a capital crime. All laws are made, or ought to be made, in reference to the occasions and wants of the people, and

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to meet the rising circumstances of the time. It is this principle which has altered, modified, and raised our English jurisprudence to its present excellence. The late establishment of banks in India, of Company's bonds and Nabob's paper, besides the monthly pay of individuals, which is always drawn for in paper, and sometimes circulated for months in that form before liquidated, has, in fact, transformed almost all the property of the country into that medium, and therefore renders a more than ordinary precaution necessary to guard against the facility with which it may be counterfeited and abused. An enactment on this head could only proceed from Parliament, so as to apply also to the supreme courts. It could not be supposed, that the measure of rendering forgery a capital offence would prove repugnant to the prejudices or feelings of the natives: the bad only would suffer from it, the good would feel it a protection. Where crimes are likely to be committed by a few individuals, and at the expence of the community at large, the latter will always approve of any law which may tend to prevent them.

Adawlut system at Madras.

Many complaints have lately been made against the introduction of the courts of Adawlut on the Madras establishment, before a property was given to the inhabitants by the establishment of the permanent settlement, as if men had no rights but in landed property. But a man has a property equally in his moveable effects, in the protection of his family, his character and religion, and in the confidence and tranquillity which he derives from knowing that all these are secured to him by law. The domestic relations or private dealings of the individual are the great sources of litigation in every conntry. The land-tax, besides, being fixed in its nature, can seldom, or ever, come to be disputed; and, accordingly, we find that it is never enforced in England by legal process. This objection, therefore, is by no means well founded. There are, however, other exceptions against the too general introduction of the judicial establishment, which are not so easily answered. In my report, in drawing out the Madras Regulations, I suggested the propriety of " the system being " gradually introduced, and that it ought rather to grow out of some first gem " than start at once full grown, like Minerva from the head of Jupiter, shaking " a lance and ægis at the astonished native. They will arise gradually, as " the best laws have ever done, out of the manners and habits of the people, " meliorating and reflecting back the principles they have derived from them." And it is certain that the opinion of all writers, on subjects of this nature, lean against a too sudden change in the laws of a people. Some arbitary acts, however, on the part of the Collectors, and the general success of the system in Bengal, seemed to warrant the introduction of the courts at the time it was made. Two circumstances appear to me unfavourable to the jurisdiction of the courts, and which might, perhaps, have been better omitted or altered, so far as it was possible to do so, for the remedy of both circumstances was not altogether within the means of Government: first, the extension of the system to the Polygar and Hill Rajahs; second, the retrospect of old debts in the way it has been made.

Objections against extending the system to hill people.

In respect to the first of these, or the jurisdiction over the hill people, it has always appeared to me that there is, in every large extent of country, a certain point where civilization breaks off and barbarism commences. The effect of civilization is generally strongest at the capital, and diminishes as it extends from its centre. But this is more particularly the case where local circumstances interrupt the communication of manners and intelligence. We see this illustrated in the circumstances of our own country, and that of most others in Europe: in India it is remarkably so. The inhabitant of the hills is altogether a different character from the artist or tradesman in the large towns; and rules that are good for the one can hardly be fitted for the other, if we mean to make the prejudices of the natives the standard of our laws. Much has been said of the expediency of disarming the Polygars, and obliging them to commute their military service: but this was, perhaps, an unnecessary regulation. Men do not follow any profession, otherwise than as they think they will gain by it. Where the arts of peace are open, there is no particular encouragement to the use of arms: it will soon cease of itself, even as a mark of distinction. " The feudal law lost ground in times of peace. It was a " violent and unnatural system, which could not be long supported in contra- " diction to love of independence and property, the most steady and indus- " trious

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"trious of all the human appetites. After a regular government was introduced "in Britain, which favoured the arts of peace, all men conspired to overthrow "the feudal system. The vassal was willing to purchase independence with "his money; and the superior, who had no longer occasion for military "tenants, disposed of his land to better advantage." (Kaimes' Law Tracts, page 130.)

The same progress of society would naturally have taken place in India. Our attempt to disarm the Polygars, and force them into civilization, has perhaps sometimes driven them to rebellion, and made it a point of honour for them to retain their arms, which they would soon have seen the advantage of throwing aside.

The expense of our administering justice to these people is very considerable, and is so repugnant to their feelings, that in order to do it, even in appearance, the common forms of process must be omitted. It might therefore, perhaps, be advisable, in every respect, that they should be only amenable to the Collector, as heretofore, leaving the barbarian to enjoy his hill, and rule his vassals as usual, so he only paid his *kist*. In Britain we were late in extending our general law to the northern part of the kingdom; the hereditary jurisdictions were but done away at no distant period. Juries are not yet introduced in civil cases in Scotland; and, if we may believe some, could not, from the state of society, safely be so. If such precaution is necessary in our own island, can none be required in a foreign country?

Old Debts.

The second circumstance which has been unfavourable to the approbation of the courts at Madras is the agitation of old debts.

It must be admitted, however, that a debt should not be extinguished by time alone, where there was no omission on the part of the creditor to keep the claim alive, by agitating the demand within twelve years, the period of proscription for unclaimed debts by the law of the country. The expediency of some restriction as to the debts of the independent Rajahs, was foreseen and provided for, by excluding from cognizance the private debts of any native prince, Rajah, Zemindar, Polygar, or other independent landholder, who did not, at the time of entering into such engagements, stand amenable to a court of justice or some public authority for their discharge. Without some article of this sort, the whole property of the country would have been transferred from the natural owners to a few Soucars and usurious money-lenders*. It was impossible, however, to interrupt the claims upon the common inhabitants, which they had always been amenable to pay, in one shape or another, under the authority of the Cutwal or Cauzee, or some cognizance of that kind. The number of outstanding debts has created a great burthen upon the files of the courts, and must, no doubt, greatly obstruct the common discharge of business. In order to remedy this, it occurred that some other form, of a separate and more summary process, should be adopted for the decision of the causes; but the limited number of servants being hardly sufficient for the common routine of business, no persons could be spared for this duty.

General observations on the Bengal code.

Having had occasion to mention the accumulation of rules in the Bengal Regulations, I beg leave to offer some further observations on that head. These rules have arisen from the natural circumstances of things in the first progress of a new institution, where the hand of Government was necessary to guide and direct the individual in the new steps he was to take, and must, therefore, be considered as a lasting monument of the wisdom and diligence of the first formers of the system. But many of these rules have been since altered, modified, and repealed, with the substitution of new ones, in order to accommodate things to the growth and advancement of the system. It being with the political as the natural body, that the same vestment will not suit its early and its more advanced state, the period is, perhaps, now arrived, when it might be expedient to review the system, to mark the circumstances which have favoured or impeded its progress, and to consider what might best ensure its further improvement. A measure of this sort has been occasionally adopted in most States, and very frequently in our own, with great benefit. The system has already derived every advantage that could, perhaps, be given to it, by the management

Proposal for a review of the system.

* This point was considered at some length in my report, and every caution taken to settle it on prudent and sound principles.

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management of Governors of great local experience and ability. Scholars in eastern literature have also assisted it, with a knowledge of whatever was useful in the laws and customs of the country. But there is a species of learning which is more peculiarly confined to Europe, with a participation of which it has not, perhaps, been equally benefited; it might be good, therefore, if the system was revised and reported on by men who were familiar with the great principles of civil jurisprudence and general law. The present circumstances of our Government in India affords the presence and assistance of one who had early distinguished himself in that way, by an investigation into the corruptions and abuses of Indian judicature; a proposal for a new digest of the code, therefore, under his inspection and authority, could not, perhaps, be more seasonably made.

Proposal for a new digest.

The laws for the Bengal provinces carry reference to a vast body of people who, as in other countries, must not be allowed to plead ignorance to these, which they are bound to obey. But this knowledge is hardly possible in the sudden growth of the system, the medium of a foreign language, and the vast extent of the code itself, which, from I know not what reason, is never to be purchased in Calcutta. Yet it is necessary for even the Europeans who are settled in the provinces to be acquainted with many parts of it: they cannot well obtain this knowledge from the black pleaders, and they ought not to apply to the judges for information.

It might, therefore, be proposed to draw out a digest of the code, with the least injury possible to the existing rules. Lord Bacon has laid down the following rule for an amended code of laws. "There are two ways in use of "making new statutes: the one confirms and strengthens the former statutes "in the like cases, at the same time adding or altering some particulars; the "other abrogates and cancels all that was enacted before, and instead thereof "substitutes a new uniform law. And the latter method is the best: for in "the former the decrees become complicate and perplexed, and though the "business be performed, yet the body of laws in the mean time becomes cor-"rupt; but in the latter greater diligence must be used when the law itself "comes to be weighed anew, and what was before enacted to be reconsidered "antecedent to its passing, by which means the future agreements and har-"mony of the laws is well consulted."

Every respect is due to so great an authority, and an entire new code, in the manner he has suggested, would be the measure naturally to be adopted. But the experiment is not yet sufficiently ripe, nor are the principles so fully ascertained as to warrant so great a change. No general repeal would seem prudent of the existing Regulations, nor the publication of any new digest by the authority of Government. A compilation or abridgement of the existing regulations might be made with advantage in the following order: to divide the whole in its three separate parts; 1st, the rules of pleading and of law; 2d, revenue regulations; 3d, the commercial.

In this digest, the laws already abolished would come to be omitted; 2d, the several rules on the same subject to be formed under one head; 3d, the former preambles and explanations annexed to particular laws to be left out, and nothing but the enacting clauses retained; 4th, some exceptionable parts to be rejected altogether; 5th, some new rules to be added. In order to effect the two last improvements, particular Regulations to that end should be passed by Government. Several points have been long in contemplation on these two last heads, the discussion of which would greatly extend this letter, already too long.

This disgest, although undertaken with the countenance of Government, should not be considered as an authority in the courts of justice, nor allowed to be quoted. In this respect it might prove of great service and utility in the elucidation and reference to the laws, and could hardly be of any detriment.

I have the honour to be, Gentlemen, with the greatest respect,
Your very obedient humble servant,

(Signed) J. LEITH.

London, Glocester Place, New Road, No. 2.
23d January 1808.

COLONEL

COLONEL MUNRO.

Memorandum on the Revision of the Judicial System.

In the various plans that have been suggested for reducing the public expenditure in India, none seem to have been thought of for lessening that of the judicial department, though there is none in which retrenchment may be made with more advantage, both to Government and the inhabitants. The fear of being thought an advocate for the continuance of old abuses, and an enemy to the dispensation of justice, has, perhaps, prevented the heavy expense attending it from being so narrowly examined as it would otherwise have been; but this very difficulty of diminishing the expense after it has been once authorized, ought to be the strongest motive for revising it, and introducing every practicable reduction before the sanction of time shall have rendered such alteration less easy than at present. The whole establishment is of recent origin, and has in a few years arisen from nothing to be the most expensive judicial system in the world.

Had it been called for by the people themselves, or had any great benefit resulted from it, or had it even been acceptable to them, the expense might have been defended; but the higher ranks were averse to it, because it diminished their influence, and the inferior orders, because it was attended with vexatious delays, forms, and expense; and all classes were better pleased with the old imperfect mode of administering justice, because it was supported by ancient custom and prejudice, because it was free of expense in its principle, and though occasionally corrupt was less so than at present, and because decisions were infinitely more expeditious.

In a civilized populous country, like India, justice can be well dispensed only through the agency of the natives themselves. It is absurd to suppose that they are so corrupt as to be altogether unfit to be entrusted with the discharge of this important duty. If they were so, there would be no remedy for the evil; their place could never be supplied by a few foreigners, imperfectly acquainted with their customs and language. As much as possible of the administration of justice should, therefore, be thrown into the hands of the natives; and the business of the European Judge should rather be to watch over their proceedings, and see that they execute their duty, than to attempt to do all himself.

The judicial system is chiefly useful in restraining the officers of Government within due bounds in the exercise of their authority, and in protecting the inhabitants against any arbitrary act of power: but it has many serious defects. So far from expediting the dispensation of justice, it impedes it in so great a degree, as almost to bring it to a stand; for it can hardly be said to go on, when it proceeds so slowly as not to keep pace, in any proportion, with the demands of the country. The efficiency of the system is clearly shewn by the vast accumulation of causes in arrear, and by the consideration that to this mass should be added thousands which never come forward at all, from the parties despairing of their ever being heard.

The code, though it recommends that suits shall, as far as possible, be settled by native arbitrators, commissioners, &c. yet its provisions have the effect of drawing almost every trifling cause before the European Judge, instead of leaving it to be settled by a native, on the spot where it arose, and where it would have been done more expeditiously, and without expense or inconvenience to the parties. The Vakeels, or native pleaders, have an interest in bringing every suit into their own court. In most cases they derive a pecuniary advantage from them, and in all their vanity is gratified by the solicitations of the litigants: for a person who has a suit, knowing that the European Judge, from his imperfect knowledge of the language and customs of the country, is often biassed in his decisions by the opinions of the native law officers and servants, applies to them, and his cause is frequently decided before it goes into court, where it is carried only for form sake.

The system has the advantage of being more correct in some of its decisions than the practice of the natives. But this does not counterbalance the evils of delay;

delay; and summary justice, though sometimes erroneous, was more agreeable to the natives, as being sanctioned by their prejudices and ancient usages.

Colonel Munro.

The system overthrows Indian customs and institutions: for they cannot be said to be respected, when justice, instead of being administered gratis, is charged with a heavy expence; when, instead of being summary, it is rendered dilatory to the extreme by a multitude of forms unknown to the natives; when every person may be imprisoned for debt, however small the amount, instead of the creditor being left to obtain payment by distraint or sitting in dhurna; and when the heads of the villages, by whom all petty causes were formerly settled, are now prohibited from taking cognizance of them.

By depriving these men of their ancient authority, they are prevented from settling litigations on the spot as they arise, which here go on accumulating to the court of the European Judge, where but a small proportion of them ever can be heard. Their services are lost as village magistrates, to the great inconvenience of the country; and their influence over the inhabitants, which is almost always exerted in the support of Government, and is more efficient than an army in maintaining internal tranquillity, is weakened.

Every province in India is divided into small tracts of land, called villages, extending usually from one to four square miles. The term village is applied to a portion of land, whether there are houses on it or not: if there are no houses, the land is then said to be a desolate village. The affairs of every village are managed by two head men: one is called the Potail, and is generally a husbandman; the other is called the Curnum or Putwarry, and is usually a bramin. The Potail is the chief of a village: he acts in it as Judge, Magistrate, and Collector; the inhabitants, when dissatisfied with his decisions, being at liberty to apply to the district or provincial Collector. The Curnum is the register of the village, and assists the Potail in all his transactions. Both enjoy service-land generally rent-free, though sometimes paying a small quit-rent. They are, in fact, the only great body of permanent land-owners in India; for their lands are secured to them under every change, whenever those allotted for religious purposes are resumed. The officers of both are hereditary: and in a country where the revolutions of government are so frequent, they are regarded by the inhabitants as their only natural and permanent superiors; for whoever rules the province, they still rule the village. But, by the judicial regulations, their authority is done away, excepting in cases where they are appointed to act as commissioners under the Judge; and they are deprived of the consequence which, under every change of government, whether Hindoo or Mahomedan, they enjoyed among their countrymen. In the provinces under the Madras Government there are, at least, fifty thousand head men of villages. These are all discontented, by losing the authority which they formerly possessed, and will, no doubt, be disposed to exert their influence, in support of any revolution by which they may expect to regain it. The loss of authority is not all they have to complain of: they are subjected to great inconvenience and distress, by being summoned as witnesses in every trifling litigation that goes before the Judge from their respective villages. They are supposed to know the state of the matter better than any body else, and are, therefore, always summoned. They are detained weeks and months from the management of their farms; and are frequently no sooner at home, than they are called away, fifty or a hundred miles, by a fresh summons, about some petty suit, which they could themselves have settled much better upon the spot; and crowds of them, as well as the principal Ryots, are always lying about the court, and very often without its being known to the Judge that they are there.

The influence of caste in India, however great, is insignificant, compared to that which the head-men of the villages possess, from their hereditary station as chiefs of the village municipality: and hence, in the hands of every wise Government, they are the most powerful instrument for maintaining order and tranquillity in the country; and they require no other management than merely to be left in the quiet enjoyment of their ancient privileges. Too little attention seems to have been paid to this important point in the formation of the judicial system, which is gradually undermining the whole fabric of the village constitutions, so admirably adapted for the preservation of internal peace and security:

security: for those Potails who are not employed as commissioners have no authority in their villages; not even over the watchmen, who hence, as well as the other village servants, lose all respect for them, without transferring it to any other person. Subordination, where it is most wanted, is destroyed, and confusion and contempt of authority are introduced. 'It is true that the few Potails who act as commissioners still retain somewhat of their ancient authority; but it is enfeebled, and they are themselves disgusted by being obliged to serve under two masters, the Judge and the Collector, in the different capacities of political and revenue servants; and all their remaining influence, together with all the aid to be derived from a new and expensive police establishment, are not half so efficient for the protection of the inhabitants and the maintenance of the authority of Government as the ancient system was.

The best remedy would be, to restore to the Potails their former jurisdiction over their respective villages; to let them settle all petty suits in the usual summary manner, without making them matter of record; to let causes of more importance be decided by arbitrators or by native juries; to reunite the offices of Collector and Magistrate; to give to the Collectors original jurisdiction in all cases, leaving the parties at liberty, either to apply to the Judge in the first instance, or to appeal from him to the Collector; and to confine the Judge to such duties as are purely judicial.

Under the native Governments, the Collector of the Revenue is also the Magistrate, and no other person has any control over the Potails, Curnums, and watchmen: for they, as well as some others of the village servants, are both revenue and police officers; and if we wish either to secure their attachment, or to avail ourselves of the full advantage of their services, we must place them, as heretofore, under one superior only.

By reverting to the Indian village institutions, an expensive police, which has been formed within these few years, and is still increasing, might be abolished, as not only useless but vexatious to the country. There is already an ancient system of police in India, which answers every useful purpose, and which requires no other aid, unless that of being restored to its former state, in some few places where it may have been destroyed by violence. In every village in India there are hereditary watchmen, whose business it is to guard the property of the inhabitants and travellers from depredation, and to exert themselves in recovering it when lost or stolen; and there is, perhaps, no race of men in the world who are equally dextrous in discovering thieves. They are maintained by the produce of an enam land, by a trifling tax on each house, and by a small allowance from travellers when they watch their property at night. No war or calamity can make them abandon their inheritance. If driven from it they always return again, and often live in the village when every other person has forsaken it. This long and constant residence, together with their habits of life, make them perfectly acquainted with the character and the means of livelihood of every person in it. When, therefore, a robber is to be apprehended, the new police officers apply to them, and seldom give themselves any further trouble, than merely to carry the criminal, when the village watchmen have secured him, to the Judge. As the whole territory of India is divided into villages, it is evident that, if every village is properly guarded by its own hereditary watchmen, the whole country is guarded against the depredations of internal thieves or banditti, for they cannot remain in it without being discovered. When they infest a country protected by village watchmen they are strangers, and come either from the territory of a foreign power or that of some tributary of our own. In either case, no body of police officers, however numerous, can check the evil. The only remedy is to compel the tributary to punish and give up the offenders, or to direct the Residents at the courts of the neighbouring powers to make an arrangement, by which the subordinate officers of the respective Governments shall mutually assist in extirpating banditti. The native Governments never refuse to give the requisite orders for this purpose, and they are often productive of good effects; though it must be owned, that their petty refractory tributaries usually treat them with neglect. When this takes place, and when the depredations of the banditti are serious, the mischief can only be removed by a military expedition.

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Answers to Court's Queries.

Colonol Munro.

The Nizam, in 1803, had prepared a force to reduce a number of petty tributaries on his southern frontier, who protected banditti that made incursions into the Ceded Districts. The design was laid aside, in consequence of the breaking out of the Mahratta war; but the alarm which this preparation excited induced several of the tributary chiefs to make the banditti quit their territory. This effect will always be produced when the British Government interferes; for the apprehension of its power is so great, that no petty chief will risk his own possessions, for the sake of the precarious profit which he derives from sharing in the booty of robbery. But before any steps can be taken against banditti, it must be ascertained where they are sheltered, and no men are so well qualified as the village watchmen in making this discovery; and as none are nearly so expert in tracing domestic thieves also, it seems obvious that they are better adapted than any other police establishment for giving security to the inhabitants, and that, instead of creating a new, expensive, and inefficient system, we ought to give activity to the old one, where it exists, and to restore it where it has fallen into decay. It is only in this last case that any additional expense would be incurred. Nothing more would be necessary than a small grant of land in each village. Lands formerly allotted to the watchmen will probably still be found in most villages, either appropriated to other purposes or lying waste, and ought to be restored to them; for the person who holds the village, holds it with the reservation of the rights of all other individuals, a condition which is usually inserted in all Indian grants

If, however, we wish to obtain all the benefits which may be drawn from the village watchmen, we must not transfer them to the charge of a police Darogah or any other new officer, but leave them, as formerly, under the exclusive authority of the Potails. The Talliar is, in fact, a servant of the Potail: he attends him at all times when not employed on other business; he is fed by him when the produce of his land and fees is insufficient; he regards him as his hereditary master, and executes his orders with zeal and fidelity; and the Potail, from his influence over him, as well as from having always been accustomed to the management of the village Police, is much better qualified than any other person can be to direct his services to the greatest advantage. Great towns are protected by the watchmen of the village on the territory of which they are situated; but it is also usual in such places, in addition to the village watchmen, to have a Cutwal with a few Peons, who are paid by the month and retained only during good behaviour. They are employed rather for the purpose of preventing riots and affrays than of apprehending thieves, and their number, even in the most extensive province, is very trifling. It is also often necessary to station guards of armed Peons, or militia, in woody or mountainous passes, between the Company's frontiers and those of a neighbouring power, to protect travellers against banditti who are sheltered there. Great towns and frontier passes are the only situations in which any other police than the village watchmen is required.

If the Collector is made Magistrate, the business of the Judge would be so much diminished, that a considerably smaller number would be sufficient to carry it on.

The provincial Judges should, I think, be stationary; for they are not so well calculated as the zillah Judges for the Circuits. The fatigues of a journey over so great an extent of country, the oppression of the climate, and occasional bad health, frequently render them unequal to the labour which a proper discharge of their duty demands, and must too often have the effect of making them hurry through it, in order to get home. The zillah Judges, being in general younger men, are abler to undergo fatigue, and as their circuits would be less extensive, they would have more time, and probably more health, to attend to the duties of them.

The country might be divided into circuits of two zillahs each. The jail delivery in each might be made twice a year, by the two zillah Judges conjointly; or, in cases where this was found inconvenient, separately and alternately. The periods of the jail-delivery should be fixed, so as to correspond, as far as possible, with seed-time and harvest.

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The duty of this circuit being transferred to the zillah Judge, two provincial Judges to each provincial court of appeal would be amply sufficient.

If the ancient Hindoo system of village police is confirmed or restored; if the offices of Collector and Magistrate are reunited with judicial powers to a certain extent, and if the circuits are performed by the zillah Judges, the reductions which under these circumstances might be made, would be as follow:

At Madras.

Four provincial Judges, one in each court, per annum, Star Pagodas	40,000
Eight zillah Judges, together with their establishments	2,21,400
	2,61,400
New police establishment at Madras	21,000
	2,82,400 = £112,960

On the Madras establishment there are at present twenty-one zillah courts, including the two small ones at Pondicherry and Seringapatam.

The charge of maintaining them, by the last accounts, was as follows:

Twenty-one zillah courts, European establishments, per month ... Star Pagodas	20,158	8	34
Native ditto	7,496	43	53
Police ditto	16,409	23	70
Contingencies	4,367	2	61
Total	48,431	33	58
Per annum, Star Pagodas	5,86,180	44	56

This sum, divided by twenty-one, the number of courts, gives, as the medium expence of one court, Star Pagodas	27,675
Which, multiplied by eight, the number of courts proposod to be reduced	8
Gives the sum entered above ... Star Pagodas	2,21,400

As the expense of every court varies from that of the rest, not only in the articles of police and contingent charges, but also in that of the European and native establishment, the taking the average of the whole for the eight courts proposed to be reduced appeared to be the best way of calculating the amount of the saving. The sum is, I am satisfied, rather underrated; for though the whole police charge of eight courts is struck off, that of the remaining thirteen is left entire; and, in these thirteen, the charges for the new police, which it has already been proposed to strike off, is no doubt greater than that of the old police in the eight districts, though the accounts do not specify the amount of the new and old respectively.

The thirteen zillah courts proposed to be retained might be stationed as follows:

2 in the countries north of the Kisnah.
3 between the Kisnah and the Colleroon.
3 south of Colleroon.
2 in Malabar and Canara.
1 in the ceded districts.
1 at Pondicherry.
1 at Seringapatam.

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It may be said that, if we reduce the number of courts, the arrear of undecided causes, which is already so great, will accumulate more and more every year. But it is the system itself which occasions this accumulation, by its cumbersome forms, and its tendency to draw every petty suit into the zillah court. The present courts, as they are now constituted, or even an additional number, will never diminish it. This desirable effect, however, will easily be produced by a smaller number, if their form of process is somewhat simplified; if the office of Magistrate is separated from that of the Judge, and if the ancient village police is restored and placed under the Potail and Collector. Had justice always proceeded as slow as of late years, what would now have been the state of the country? There would have been as many unsettled suits as inhabitants. There are no arrears of causes under a rigorous native Government. There were few or none formerly under the Company's, where a vigilant Collector was employed. If the number is now every day rapidly augmenting, it must originate in some defect in the system. But, in answer to this, it will be urged, that the decisions of the native officer and the European Collector were summary, and often regulated rather by caprice or corrupt motives, than by a strict attention to justice. This was, no doubt, true in many instances, and operated to a certain extent; but the grand cause which prevented the accumulation of suits was the practice observed over all India, of referring all important ones to arbitrators or juries, leaving all petty ones to the heads of villages, and all those connected with the institutions of religion, or of caste, to the spiritual guide or head of the caste, and the facility and expedition with which juries were assembled, either on the spot where the litigation arose, or any other place where the parties might wish to have it decided. If we return to this system, causes will be settled as fast as they come forward, and half the number of Judges will be much more competent than the whole are now to the task of administering justice to the country. By our Judicial Regulations we spread the spirit of litigation every where: we bring into court the domestic disputes of relations, and destroy the patriarchal authority which has hitherto been exercised by the heads of families. We do away the influence of the Potails of villages, and encourage the lower orders of people to despise the control of their superiors. We remove the moral and superstitious feelings by which they have always been governed, without substituting any thing better in their room, or any thing to restrain them from mischief but the terrors of the law; and while we profess to respect their customs and institutions, we have introduced greater changes than all their former invaders together.

We ought to stop before it is too late, and modify our judicial system, so as to restore their lost authority to the heads of castes and villages, and we shall then find that the business of the courts will proceed much more easily. Should it ever become necessary to increase the number of courts at any future period, it ought to be done, not by employing any additional Europeans, but by establishing a native court under a native Judge, with a liberal salary of from five hundred to one thousand rupees monthly. Such a man would decide more causes than any three European Judges, and in, at least, as satisfactory a manner. It will be objected, that he would act corruptly. It is very probable that he would. Turn him out and appoint another; and, if necessary, a third: and it is most likely that, finding his situation highly respectable, and its income ample, he will determine to preserve it by acting honestly. Most European Governments have deemed it advisable to purchase integrity in high public officers by honours and emolument. If we want it in India, we must adopt the same means; and if we pay the same price, we shall find it among the natives of that country as readily, I am afraid, as among Europeans. Under the sway of every Mahomedan conqueror, the natives of India have been admitted to all the highest dignities of the state: it is only under the British Government that they have been excluded from this advantage, and held in a condition, even when employed in the public department, little superior to that of menial servants. It is not requisite that they should be raised to the higher offices; but they might occasionally be employed in the judicial and revenue lines, as subordinate Judges and subordinate Collectors. A few such appointments, conferred on respectable natives, would conduce, more than all our

Regulations

Regulations, to attach the people to our Government, which never can be popular while it admits no individual among them to any office of importance.

Colonel Munro.

If a reduction is made at Bengal, similar to that proposed for Madras, the saving will be still the more considerable, as the judicial establishment is proportionably higher at Bengal than at Madras. The number of courts should be determined from a consideration of the extent of territory as well as of revenue and population; and, on this principle, if only four provincial and thirteen zillah courts, including those of Pondicherry and Seringapatam, are allowed for Madras, six provincial, four city, and twenty-two zillah courts, will be abundantly sufficient for Bengal; and a reduction may therefore be made of eighteen zillah courts, and six provincial Judges, being one from each provincial court.

The annual expense of forty zillah courts, the number under the Bengal Government, is.................................. Sicca Rupees	47,94,817
The expense of one court, calculated at the average of the whole, is..	1,19,870
	18
The expense of eighteen courts to be reduced is......Sicca Rupees	21,57,660
Or,	£ 269,707
The salary of six provincial Judges is....................................	24,000
Total Bengal	£ 293,707

The Bombay accounts are too imperfect to afford much information, but the reduction in the judicial establishment there may be reckoned at £ 10,000.

Brought forward	£ 293,707
	10,000
Add the proposed reduction at Madras	112,960
Total amount of reductions in the Judicial department...............	£ 416,667

On the Bengal establishment there are eight provincial battalions, at an annual charge of Sicca Rupees 8,94,997, which seem to be maintained for the purpose of police; but no part of this charge is included in the proposed reductions.

COLONEL MUNRO.

Colonel Munro.

The Judicial system introduced into India by the British Government, though it has, in many instances, given to the natives a greater degree of protection and security in their persons and property than they had before enjoyed, yet in others, again, from the collision of authorities which it has occasioned, from the want of a more summary process in petty suits, and from the annihilation of the ancient jurisdiction of the Potails, or heads of villages, it has left justice more difficult of attainment than it was before. It has had the beneficial effect of shewing to the people of India, that not only individuals, but public officers and Government itself, are accountable for every act done by them contrary to the laws, and that it is the wish of Government that its power should be founded on justice. But though the natives admire this principle, they certainly do not think so highly of the means which have been adopted for its accomplishment; for the system is regarded by them rather as one of good intention than of efficient operation. Its main defects are, that it is too artificial, and too little adapted to the state of society in India; that it proceeds upon the assumption that the natives are altogether unworthy of trust, and in consequence it requires too little native, and too much European agency; and that it takes the duties of Magistrate and Superintendent of Police from the Collector,

Collector, by whom alone they can be adequately discharged, and throws them upon the Judge, who has no time to attend to them, and who cannot engage in them without deranging the municipal institutions of the country, which connect them inseparably with the office of collector.

2. In seeking to facilitate the administration of justice and the police, it is not necessary to overthrow, but to correct, the existing system: and, with this view, two important alterations must be adopted; first, the confining the Judge entirely to his judicial functions; and, second, the separating the offices of Magistrate and Superintendant of Police, from that of Judge, and re uniting them to that of Collector, as they formerly were under the British Government, and as they always are under the native princes. It would also be expedient to grant to the Collector and the heads of villages a limited jurisdiction in petty civil suits. By this arrangement, the Judge would be relieved from the duties of Magistrate, and from the hearing of a number of petty causes, which, together, occupy the greater part of his time, and would have abundant leisure to get through all the suits that came before him. The police would be infinitely better managed by the Collector than by the Judge, and the Potails and Curnums of villages would be relieved from serving two masters, the Collector in matters of revenue, and the Judge in those of police, and would regain their usual authority, which has been too much weakened, and strengthen Government. The union of the powers of Magistrate and Collector may appear extraordinary in this country; but as the municipal institutions of India are calculated for those duties being vested in the same person, it is much better that they should remain united in him by whom alone they can be adequately discharged, than that, by a separation, the important office of Magistrate should be rendered totally inefficient. We are not to consider English maxims as always applicable to India, but to follow those rules which are most applicable to that country, as it now is. India has no political freedom, no voice in framing laws or imposing taxes; and many regulations are now proper there, which might be otherwise under a state of greater freedom.

3. The present judicial system can suffer no detriment, but will rather be invigorated, by restoring the office of Magistrate to the Collector. The duties of Magistrate and Judge are so totally unconnected, that no collision of authorities can possibly arise from the measure. But it will require much consideration, and perhaps great practical experience, before such a line of distinction can be drawn between the powers of the Judge and of the Collector, in his judicial capacity, as may prevent their clashing with each other. The usage of India entrusts to the Collectors the fiscal and judicial powers in an equal degree: the British Government has made a complete separation of them. Their union, to a certain extent, would render the administration of justice much more efficacious, by enabling it to reach numberless petty cases, which would otherwise be left without remedy; but the separation should still be sufficiently wide to preserve a perfect controul over the Collector, whenever it was supposed that he could have any bias as a party concerned.

4. If the Collector is invested with the authority of Magistrate, his situation, as far as regards the police, will be exactly the same as under the native princes: he will have the undivided command of all the village servants, and will be able to employ them, according to the custom of the country, in the duties both of revenue and police. The constitution of Indian villages has been so often explained, that it is hardly necessary to repeat, that under the Hindoo Government, the police is directed by their respective Potails, or head farmers, with the assistance of the Totties and Tallaries, the hereditary village watchmen. The powers of the Potail, as Magistrate, though not defined by any written law, are sufficiently limited, by the custom of the country, to prevent their being converted into an engine of oppression. He has every facility for apprehending offenders, but he is rarely permitted to inflict even the most trifling punishment. In petty affrays or assaults, he may confine in the cutchery for one or two days, and take bail for good behaviour. Where the conduct of the aggressor has been particularly outrageous, he may put him in the stocks for a day, or punish him with two or three strokes of a cane; but the stocks and the cane are seldom resorted to. In offences of magnitude, such as housebreaking, robbery, or murder, he apprehends, examines, and reports, but cannot punish.
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The proceedings, on such occasions, are usually as follows: When a robbery happens within the limits of the village, information is immediately brought to the Potail, who, if the robbery has been perpetrated by a gang, and resistance is expected, puts himself at the head of a number of armed inhabitants and goes in quest of the banditti; but if there are only one or two robbers, he instantly calls the village watchmen together, and dispatches them in pursuit. They repair to the spot where the robbery has been committed, and are guided by such intelligence as they can obtain there. If they can procure none, they shape their course by their knowledge of suspicious characters in the neighbouring villages, or they endeavour to trace the mark of the robbers' feet in the sand; and where it passes their own boundary, they shew it to the watchmen and Potail of the village within whose limit it has entered, who are then answerable for the apprehension of the offender. But if he is taken within the jurisdiction of the village where the robbery was committed, he is carried before the Potail, who, with the Curnum, investigate the matter publicly in the cutchery. The deposition of the prisoner is taken in writing: that of the principal witnesses is also sometimes, but not always, committed to writing. When the examination is finished, the Potail and Curnum, with the prisoner and witnesses, proceed to the station of the district Aumildar, who again examines the parties publicly, and commits the whole of the depositions to writing: he then reports the circumstances to the Aumildar of the province, and according to the orders he may receive, either detains the prisoner for future examination, when the head or provincial Aumildar comes to the spot in his ordinary circuits, or immediately sends forward the prisoner and witnesses to him. Under the Hindoo princes, the provincial Aumildar has not only the authority of a Magistrate, but all the powers of a criminal Judge in their utmost extent, and his sentence is, therefore, final. He is sometimes restrained from the ordering the execution of a capital sentence until he has made a reference to the prince, but this is not usual. The sentence of death is, however, rarely passed, except in cases of murder, or in some very atrocious cases of gang-robbery accompanied with maiming.

5. The Hindoos did not employ punchayets in criminal cases. The Judge, either alone, or with the assistance of his deputies or other public officers, tried and passed sentence.

6. The account which has been given of the Potail, in his capacity of village Magistrate, in the states of the native princes, was equally applicable to him in the dominions of the Company, until the introduction of the judicial system. The district Aumildar of the Hindoos was similar to the Tehsildar of the Company's Government. His powers, as a Magistrate, very little exceeded those of the Potail; only that he might, and the Potails could not, levy small fines for petty offences. The provincial Aumildar of the Hindoos was the old Collector of the Company's Government, exercising judicial authority. The Collector has very properly been deprived of the functions of a criminal Judge, but all those of Magistrate ought to be left to him entire and undivided; for, by no other arrangement, can there be a cheap and active police, capable of protecting the persons and property of the inhabitants. There may, indeed, be an expensive police establishment, but its inefficiency will be nearly proportionate to its expense. No new or extraordinary powers are requisite to enable the Collectors to superintend the police. Those vested in the Magistrate by Regulation VI, 1802, will be amply sufficient for this purpose; and those exercised by the Potails and Tehsildars, being as limited as they well can be consistently with efficiency, ought to be continued to them, in the same manner as under the Hindoo Sovereigns. By this means, the duties of Collector and Magistrate will be conducted without any jarring of European authorities; without innovating upon ancient usage, by placing the heads of villages and the village servants under two masters, the Judge and the Collector; without disgusting the Potails and Curnums and village watchmen, by subjecting them to the constant interference, and even to the control of hired Darogahs; and without any additional expense, because the hereditary village servants and the Collector's revenue servants are fully adequate to every object of police. By the Hindoo institutions, the duties of police and revenue are closely interwoven. The village watchmen, the Potails, and even the Curnums or village registers, are both revenue and police servants, and the Tehsildars and their establishments are

 employed

employed alike in both duties. When, therefore, the Collector is also Magistrate every thing flows in its usual channel. The village watchmen act zealously under their hereditary Potails, whom they respect; and these again, proud of the station which they occupy, endeavour to justify the confidence reposed in them, by a vigilant performance of their duties as village Magistrates; and the Aumildars, knowing perfectly how useful the Potails are in maintaining the internal tranquillity of the country, and how necessary it is to support their influence, never interfere with them in the management of the village police, but, on the contrary, assist them with their own servants in cases of need. The union of police and revenue is supported by veneration for ancient customs, and by the habits of the people. As the system is under the immediate direction of the Potails, who are the most respectable body of landholders in India, and as they are more deeply interested in the preservation of the peace of their villages than any other class of men, and have the willing co-operation of the inhabitants, the police in their hands has every advantage which can be derived from the employment of a most active and zealous body of village watchmen, and from the cordial assistance of the people.

7. The new system of police, established under the judicial Regulations, has every thing against it, and nothing in its favour. It is at variance with the feelings and prejudices of the people, and has, therefore, no moral force to uphold it. It rests almost exclusively on the services of a set of hired Darogahs and Peons, who having no connection or common interest with the inhabitants, and not having, like the hereditary watchmen, been trained from infancy to their business, have neither the requisite zeal or skill for its execution; and as it places the Potails and Tallaries, in some degree, under the control of the Darogahs, it lessens the influence of the Potails in their villages, and deprives the Tallaries of the credit and rewards they usually obtain from successful exertions in the apprehension of robbers, and it thus injures the only men by whom the duties of police can be efficiently discharged.

8. Few persons, who have bestowed any attention on the municipal institution of the village corporations, or little republics, of which India is composed, will doubt the absolute necessity of placing the police in the hands of the Collector: but some may question the expediency of granting him judicial powers; and many who think that they should be granted, will entertain very different opinions with regard to their nature and extent. In framing new Regulations for India, it is always desirable to examine, previously, what are the existing ancient ones of the country, and what part of them it would be prudent to preserve or abolish: it may, therefore, be necessary to state, in a few words, what were the judicial powers exercised under the Hindoo princes, in the countries now forming the British empire in India, by the various gradations of revenue servants, from the Potail to the head Aumildar or Collector. The authority which they possessed in criminal matters, has been already noticed; it now, therefore, only remains to shew what it was in civil cases.

9. In matters of caste and religion they never interfered; unless in order to guard the peace of the country from being disturbed by tumults, which sometimes arose from litigations on these subjects. Disputes relative to caste or religion between individuals were settled by the head of the caste, or the spiritual guide, without any communication whatever with the officers of Government. If either of the parties was dissatisfied, he appealed from the head of the caste or the spiritual guide in the village, according to the nature of the case, to the head of the caste or the head spiritual guide of the province, and their decisions were usually final; and when necessary, they enforced them by fine or excommunication.

10. When a dispute arose regarding property, the parties, in the first instance, usually chose arbitrators in the village, who, unless the amount was very trifling, always gave their decision in writing to both parties. When the disputes respected accounts, an adjustment of them was made, and copies, signed by the arbitrators and litigants, were mutually exchanged. If either party was dissatisfied, he appealed to the Aumildar of the district or province; but no second adjustment was allowed, unless in cases of the most evident partiality. When either of the litigants wished to have his cause settled by a punchayet, he applied to the Potail of the village, who ordered it to be assembled. Such of the members

members as the parties chose to challenge were withdrawn. The first step of the punchayet was to take a bond from the parties, stating that they were willing to abide by their decision: the punchayet then proceeded to examine the parties and their witnesses. If the cause was one of considerable magnitude, the depositions of the witnesses and parties were taken in writing, and inserted in the decision, copies of which, signed by all the members and the litigants themselves, were given to each of the parties. If the suit was for a thing of little value, the decision was given in writing; but the depositions of the witnesses, and very frequently those also of the parties, were omitted. Appeals might be made to the district Aumildar, and from him to the Aumildar of the province, for a new punchayet, which was, however, rarely granted, unless when it appeared that corruption or intimidation had been employed. The punchayet was sometimes placed under restraint with regard to communication with other persons, and obliged to decide without separating; but this was not so usual as adjournments, particularly in matters of account.

11. The Potail has no control over the punchayet. It did not even sit in his presence; for this circumstance alone would have been a plea for a new trial, on the ground that he had influenced some of the members. His judicial authority, therefore, in suits between individuals, extended no farther than the assembling of punchayets and carrying their decisions into effect. It is true, that application was often made to him, in the first instance, as an arbitrator; but this was optional, and depended much upon his personal character. When he acted in this capacity, the Curnam usually sat with him, to assist with his advice, and to witness the decision. The only occasion on which he could be said to exercise the authority of a Judge was in cases of disputed rent or property between individuals and Government. In all matters of this kind, no punchayet or arbitration was admitted: he heard the complaint and gave his decision or order verbally. The party might appeal to all the different gradations of Aumildars, and even to the Sovereign; but in no stage of the business was any arbitration or trial necessarily allowed. The Aumildar, however, frequently referred such cases to the opinion of respectable inhabitants, and acted accordingly.

12. The judicial authority of the district Aumildar differed in no respect from that of the Potail; except in the greater extent of his jurisdiction, and in his being authorised to compel persons, who refused to answer demands against them, to submit them to trial by arbitration or punchayet. He, like the Potail, decided all suits which the parties voluntarily brought before him as an arbitrator; and of his own authority, all cases of rent in which Government was a party.

13. The Aumildar of the province, or Collector, was governed by the same rules as the district Aumildar in his judicial capacity. He decided, of his own authority, in all questions where Government was a party, and in all those between individuals which were submitted to him by the parties; but in all other cases, settled by arbitration or punchayet, he had no power beyond that of enforcing the execution of the decisions given. Appeals were very seldom made from him: they could be made only to the Sovereign, and unless in cases of the most glaring injustice they were not attended to.

14. From what has been said, it appears that, under the Hindoo administration, there were no courts of justice, excepting the cutcherry of the Potails and Aumildars, and that all civil causes of importance were settled by punchayets. The number of members composing the punchayet was not limited by any rule: it was five, ten, and sometimes twenty, but most usually eight or ten. There was no limitation as to the value in suits tried by punchayets assembled by the Potail or the Aumildar. It was left entirely to the discretion of the parties, who, if they thought that a sufficient number of persons, properly qualified to give a decision, were not be found in the village, repaired to the town in which the district Aumildars resided, who ordered a punchayet either there or in any other place that they desired. Copies of decisions by punchayets, arbitrators, or Potails, and Aumildars, were seldom preserved in any public office; except in suits of great importance, or for real property. But this was attended with no inconvenience, because the practice being founded on the supposition that the people could read and write, the parties are in India always the keepers of

their

their own records, and are from many local causes much better guardians of them than any public office.

15. There is probably no native Government in India, which has not lost the whole of its records, more than once, by the devastations of war. A native army, sometimes in advancing, and always in retreating, sets fire to every thing within its reach, and the dryness of the climate, and the slightness of the buildings, render the destruction rapid and extensive. Even in the strongest hill-forts the public records are not secure; for when such places are taken, the assailants enter every public building, and in searching for plunder, toss the records into the open air, where they are destroyed by fire or the weather. This was the fate of all the records of the Mysore Government at Seringapatam: they were thrown from the cutcherry into the parade below, and were almost entirely dissolved by a torrent of rain which fell next day. Besides the danger from the enemy, the cutcherry of the village and the house of the Curnum, in times of disorder, are often maliciously set fire to by persons who expect to derive some advantage from the annihilation of particular documents. From these causes, the Curnums usually keep two, and even three copies of the revenue records, and one copy is generally buried. Individuals also preserve their valuable documents in the same manner. We ought, therefore, to continue the Indian practice of giving copies of judicial decisions to the parties concerned, since, in fact, they cannot be so safe under any other custody.

16. The mode of distributing justice has been described as it was under a vigorous Government. When the Government was weak and rapacious, corruption descended from the head, through every gradation, to the lowest officer of the state, and justice was bought and sold; still, however, the evil was greatly diminished, by the universal practice of resorting to arbitration and punchayet, and by public opinion; for every interference of a public officer with their proceedings was extremely unpopular, and where undue influence had been exerted the successful party was always liable to lose what he had unjustly gained, by a new trial, on the first change of the administration of the province. The strong attachment of the natives to trial by punchayet has no doubt, in some degree, arisen from the dread of the venality of their rulers; but it has probably been increased and confirmed, by the conviction resulting from experience, that no Judge, however upright or active, was so competent as such a body to dispense justice correctly and expeditiously.

17. The main defect of the Indian system was its resting too much on the personal character of the men who happened to be in office.

18. This evil will, as far as possible, be gradually remedied by the courts established under European Judges; and under such a check, the ancient simple Hindoo forms might be preserved in practice, to the great satisfaction and benefit of the inhabitants. The adoption of this measure would not involve any essential change in the constitution and authority of the judicial courts. These ought to be maintained; but with a jurisdiction so regulated, as to give full effect to the operation of punchayets in facilitating the dispensation of justice. Nothing would be so effectual in promoting the attainment of this object as a recurrence to the Hindoo system in all minor cases, under such limitations as might guard against abuse.

19. The judicial power which, in this case, it would be advisable to grant to Potails, Tehsildars, and Collectors, would be nearly as follows.

20. The Potail should have authority, to a certain extent, to act as village Judge; but to settle no cause, unless as an arbitrator, or by means of arbitrators or punchayets.

21. He should have no authority to settle a suit by any of these modes, unless both parties shall previously have given their consent to it.

22. He should have authority, as arbitrator, to settle suits for personal property, to the value of five hundred rupees, but none for real property.

23. He should have authority, by the means of punchayets or arbitrators, to settle suits for real property under twenty rupees, and malguzari under two hundred

hundred rupees per annum, and personal property under the value of one thousand rupees.

24. All suits settled by the Potail, as arbitrator, should be appealable, at the option of the party complaining, either to the Tehsildar or Collector; but the decision of the Potail, if confirmed by either of them, to be final.

25. Appeals from the decisions of arbitrators or punchayets assembled by the Potail to be dismissed, unless partiality or corruption is proved.

26. No appeals from the decision of the Potail, as arbitrator, or of arbitrators or punchayets, assembled by him, to go beyond the Tehsildar or Collector.

27. All suits between individuals and Government, for rent, to be decided by the Potail. The individual, in every case of this kind, to have an appeal to the Collector, and ultimately to the zillah Judge, but the Collection is not to be stayed for the appeal.

The Potail to have the same power of distraining as Zemindar, but not to distrain without previous reference to the Tehsildar.

28. The Curnum to assist the Potail in his judicial capacity, and officiate for him in his absence.

29. The Tehsildar should have original jurisdiction, in every respect, similar to that of the Potail, and authority to decide on appeals from his judgment, whether as arbitrator or village Collector.

30. The Collector should have authority to settle no cause, unless as an arbitrator, or by means of arbitrators or punchayets.

31. He should have no authority to act as arbitrator in any suit, unless with the consent of both the parties concerned.

32. He should, as arbitrator, have authority to settle suits for personal property under the value of one thousand rupees, but none for real property.

33. In all cases not appealable by the Regulations, (that is to say, in suits for real property under twenty rupees, and malguzari under two hundred rupees per annum, and personal property under the value of one thousand rupees), he should have authority, on the request either of the plaintiff or defendant, whether the other party is willing or not, to order the cause to be decided by arbitrators or a punchayet. The power of ordering a trial without the consent of both parties, which it is here proposed to give to the Collector, is withheld from the Tehsildar and Potails, because, from the small extent of their jurisdiction, cases might occur in which it would be difficult to find impartial Judges; but the wide range of a collectorate removes the objection: and were it admitted that the will of one of the parties might carry the cause at once before the zillah Judge, it would enable the rich litigant to harass the poor one in a thousand ways.

34. With the consent of both parties, the Collector should have authority to settle, by means of punchayets or arbitrators, causes, whether for real or personal property, without any limitation as to value, leaving an appeal to the zillah Judge in all cases prescribed by the Regulations.

35. The Collector should have authority to decide in all suits regarding rent between individuals and Government, with liberty to the individual, in every instance, however small the sum, to appeal to the zillah Judge, but the collection not to be stayed by the appeal.

36. All suits respecting succession to zemindarries and great estates should be left to the zillah Judge, and likewise all cases of personal or real property, in which both parties were desirous of having recourse at once to his decision. These, together with appeals, would be abundantly sufficient to occupy his time.

37. The power proposed to be given to the Collector, of deciding in cases of rent between individuals and Government, may appear objectionable, as constituting him Judge when he is a party. But this is no new power. It is one which has always existed, which must unavoidably be vested somewhere, and which is perhaps, safer with the Collector than any where else. It is now, under the permanent settlement, exercised by every Zemindar and farmer. When committed to the Collector, the only difference is that it is exercised by

Potails and Tehsildars, instead of Zemindars and farmers. The Collector is more likely than the Zemindar to make a mild use of his power, because the petty balances of rent from which suits usually originate, though a considerable object to the Zemindar are none to the Collector, who can easily remit them from the great mass of the public revenue, not only without injury but with advantage to its future produce. The complaints respecting rent which come before the Collector are occasioned either by inability to pay what is really due, or by an overcharge. When the case is one of inability, the courts of judicature can afford no relief. When it is one of overcharge, it is usually an appeal to the Collector against the exactions of his own officers, the Potail or Tehsildar and redress is readily granted; or if it is withheld, the injured party has, in every instance, the liberty of appealing to the zillah court. It may be objected, that the zillah Judge, however zealous and correct he may be in the discharge of his duties, must yet feel some reluctance in giving decisions against the Collector, who is probably his personal friend, and that the frequency of such decisions will tend to lower the character and authority of the Collector. In so small a body as that of the Company's civil servants, the individuals composing it must, in general, be known to each other; but it does not follow, that a Judge in a public court will, by this circumstance, be swayed in his decisions. If he reversed, in numerous instances, the judgment of the Collector, the character of that officer would certainly suffer in the estimation of the inhabitants. But as the Collector would come under the notice of Government in the judicial reports, his misconduct would render him liable to removal from his office. It is more likely, therefore, that having much to lose and nothing to gain from improper decisions, he would endeavour to avoid them. The injustice to which the inhabitants are occasionally exposed in matters of rent would not be lessened but increased, by transferring the original jurisdiction over them from the Collector to the Judge; because, in cases of undue exaction of rent, nine out of ten are not between the Ryot and Government, but between him and the Potail or Tehsildar, and the redress can only be given by the Collector; for as the Ryots, from long habit, usually submit to those exactions without complaint, they would never reach the Judge, and they seldom become known to the Collector, except from his own investigation on the spot.

38. It is one of the most difficult parts of his duty to discover and cause them to be refunded. If he had not power to do so in the most summary way, he could not prevent extra collections from being made in almost every village, to the amount of ten, or even twenty per cent.. He may, no doubt, somesometimes abuse his power; but it is not, therefore, necessary to deprive him of it, since by having it he is enabled to dispense to the inhabitants a greater sum of justice, in matters of rent, than could be effected by any other means.

Copies of the decisions of punchayets and arbitrators are always given to the parties. A copy might also, in all suits for real, and in all above a certain value for personal property, be preserved in the Records of the Collector.

39. Justice ought to be administered free of expense, according to the custom of the country, in every stage, from the village Potail to the zillah Judge. It is evident, that our present system is not only most expensive and vexatious, but totally inefficient. There is under the Bengal Government about one hundred and thirty thousand suits in arrear. These suits will, on a moderate calculation, require a million of witnesses; and if we consider the expense, the distance, and the time they must be absent from their homes, it will not be easy to estimate the amount of injury which the country thereby sustains. But the evil, it has been asserted, is unavoidable, and springs from the litigious spirit of the people of India. Had this been their real character, it would have appeared when they paid nothing for trials. I have had ample opportunity of observing them in every situation, and I can affirm that they are not litigious. I have often been astonished at the facility with which suits among them were settled, and at the fairness with which the losing party acknowledged the claim against him. But when irritated by expense and by delay, it is not surprising that litigation should grow with the progress of the suit through its tedious stages. When the native is obliged to apply to the Commissioner, and from him to the Judge, he gets heated as he goes. What he would gladly

gladly have settled on any terms in his own village, he refuses to accommodate at an after-period. Our system produces the litigation which we groundlessly impute to the character of the people.

40. Some of the Judges, in their answers to Lord Wellesley's queries, have stated, that the process of the courts is not too expensive; but what we call trifling costs is no trifle to the native. The average of the rent paid to Government by the whole body of the Ryots does not amount to five pounds sterling for each individual. If we say that the rent is only one-third of the produce, his income cannot exceed ten pounds. It is easy to conceive how heavy the costs and delays of law must press on such men. When a Ryot has a suit, he sets out, taking with him the few rupees he has in ready money: they are probably exhausted in charges to the Vakeels and officers of the court before his trial comes on; he is ashamed to plead poverty, and he returns home ruined as a farmer.

41. A Bengal Judge has said that the delays are occasioned, not by the Vakeels, but by the suspicious nature of the people deterring them from trusting the Vakeels, and inducing them to employ private agents of their own, to whom alone they confide every important document. What else does this fact suggest, but that the system is bad, and that the Vakeels are not trustworthy? for a whole class of public men do not become suspected by those who know them best without good grounds.

42. The outline of the plan which I have proposed for confiding judicial powers, to a certain extent, to the Collector and native revenue officers, it will be said, contains little more than a recurrence to the ancient practices of the Hindoos, controuled, in some degree, by a zillah Court and a European Judge. This is precisely what I think it ought to be, for when a new system of administering justice is to be introduced into a foreign country, governed like India by a few strangers, it should not be by a total and sudden change, but rather by preparing the way for the change to be adopted insensibly by the natives themselves. The forms, at first, should be few and simple, and the deviation from old institutions as little as possible.

43. The people should have the option of resorting either to the summary decisions of their Potails, Aumildars, and punchayets, or to the more deliberate judgments of our zillah courts. If our courts are thought to be preferable to their own, they will soon learn to assimilate their own to them in form and practice, and the reformation which we desire will be gradually brought about by their own wishes. If, having a free choice, they still adhere to their own institutions, the plain inference is, that they are better adapted to the present state of society among them; for no forms of law, however excellent in other circumstances, are good, when they are not acceptable to the people for whose use they are intended.

44. Our judicial system has failed in the most important object of all law, the securing the great body of the people from oppression. It may truly be said, by the heavy expense attending it, to put them legally out of the protection of the law. The great mass of the Ryots, who are the people most exposed to wrong, must suffer in silence, because they cannot afford to complain. Under every native Government, though occasionally subject to the most tyrannical exactions, they could in general obtain redress free of expense: it is only under a new judicial code, framed expressly for their benefit, that they are utterly excluded from justice. The evil may be remedied, by entrusting judicial powers to the Collectors, but every other expedient will be found perfectly nugatory. He is strongly urged, both by a regard for his own character and the interest which he feels in the prosperity of his district, to guard the inhabitants from oppression; and for effecting this purpose, his constant intercourse with all classes, the nature of his office, and the information derived from his revenue servants in every corner of the country, furnish him with facilities, which no other individual can possess, and it is, therefore, only in his hands that judicial authority can be of use to the great body of the Ryots.

45. If, therefore, zillah courts are still to be kept up, they should act only as courts of appeal; or if original jurisdiction is given to them, it should be confined

Answers to Court's Queries.

Colonel Munro.

confined to those cases in which both parties agree to carry their suit before them.

In British laws, and in the integrity with which they are administered, there is undoubtedly an active principle of amelioration, which, when wisely directed, tends to improve the condition and the character of the people among whom they are introduced. But if we seek to ameliorate the character of the people of India, we must maintain their ancient institutions as long as they are respected by themselves: we must support the authority of the Potails, as the instruments by which subordination is preserved in the villages; and the trial by punchayet, as that by which litigations are adjusted. Our judicial code in India is a system of suspicion; it proceeds upon the assumption, that the natives are not to be trusted. Neither the Hindoos, nor any other people, can be ameliorated by distrust: on the contrary, they become debased, and act accordingly. But if we really wish to improve their character, we should place confidence in them and rouse their pride; and we shall find that, when we have gained their attachment by mild and liberal treatment, they will gradually adopt from us new customs and improvements, which, under a severe and suspicious Government, they would have rejected.

I have, in a former paper, stated the amount of the reduction which might be made in the judicial establishment, by transferring the duties of Magistrate from the Judge to the Collector.

(Signed) THOMAS MUNRO,
Colonel, Madras Establishment.

London, 22d November, 1813.

G. READ, ESQ.

Answers to Court's Queries.

G. Read, Esq.

Question

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established at Madras and the provinces depending on it?

Answer

I entertain a favourable opinion of the fitness and general effects of the system of judicial administration established at Madras and the provinces depending on it; and, with respect to its efficiency, I consider it in a progressive state of improvement.

Question.

Do you conceive that any system of ancient Hindoo institution could now, either in whole, or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Answer.

I do not conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system; but I conceive that the system of village courts and decisions by punchayet might be sanctioned and called into use, with the view to give greater efficiency to the courts established under the controul and guidance of the zillah Judges.

Question.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions at Madras, particularly the system of village courts and decision by punchayet?

Answer.

Previous to the establishment of the present judicial system, it was customary for Collectors to refer certain complaints for the decisions of punchayet, who may be called a jury, or court of arbitrators. The manner of assembling the punchayet was, as near as possible, conformable to the ancient Hindoo usage, and as follows. On a complaint being preferred before the Collector, the substance of the matter in dispute was explained in writing by the Collector to the Tehsildar or native collector of the revenue, and the party complaining was given charge of the letter, and directed to proceed with it to the

the Tehsildar. The Tehsildar addressed an order to the head man of the village in which the claim or dispute originated, requiring him to assemble a jury and to settle the cause. If the cause was of a commercial nature, the major part of the jury was chosen from among the chetty or trading class; and, in like manner, the jury was principally composed of the several classes, according to the religion and occupation of the parties. The head man of the village nominated the jurymen Each party was at liberty to reject a certain number of them; but it was necessary that a requisite proportion of the persons named should be left, that the jury should consist of an odd number, as three, five, or seven persons. The punchayet being fixed, the next proceeding was to appoint an umpire: and after the punchayet had taken from the plaintiff and defendant a muchulca, or written promise, consenting to abide by the award, and the parties had delivered in their respective vouchers and list of witnesses, they proceeded to investigate the cause. The village secretary or Conicopoly officiated as register of the court, took down the depositions in writing, drew up an abstract of the case, &c.; when the award was determined upon and written out fair, the names and seals of the arbitrators were affixed to it, and the act duly recorded in the village register. The head man of the village forwarded the award through the native Tehsildar to the Collector, properly attested; and if the grounds of the award did not, upon the face of it, appear to be unjust, the Collector countersigned it, and ordered it to be carried into execution.

Question.

If this system, introduced by the British Government, is in your opinion to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings and abridge the expense of suitors, and, in general, what, in your opinion, are the best means of remedying any existing defects of the system?

Answer.

The system of village courts and decisions by punchayet is not, in my opinion, to be preferred to the system of judicial administration at present in force at Madras. And although I am ready to admit that punchayets would accelerate the decisions of causes, and render the access of the natives to justice more easy, that they would simplify the proceedings, and in small causes abridge the expense of the suitors; yet as I foresee great confusion likely to arise in the execution of the decrees to be passed by the said village courts or punchayets, I am decidedly of opinion that village courts can merely be employed in aid of the present system, and not be substituted for it. I see no objection to a trial being given to the system. I consider it proper that the natives should have the option of referring their claims to arbitrators or punchayets appointed from their own people, in whom they have confidence, without being forced, as they at present are, to submit their claims to the zillah courts, and wait perhaps for years before they can be brought to a hearing and decision.

Question.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer.

Under the head of advantages of the present system, I have to observe that it supports the Zemindar in the collection of the public revenue, and professedly secures to the Ryot his just share of the crops. It recognizes and enforces an obedience to the Hindoo and Mahomedan laws; or promotes a regularity in all commercial and money transactions, unknown under the old system; it restrains the passions of Europeans (I mean the Company's servants) in their intercourse with the natives, by a separation of the collecting from the judicial branch of the service; it establishes a middling rank of people, as Zemindars, unknown under the former system. The great independent Zemindar is held in check, by his abhorrence of being complained against and made to appear and answer before the court of justice. All doubtful points of importance are deliberately investigated and settled, and duly promulgated by the decrees of court. The principles of every decision are clearly laid open for public examination. Business is transacted in open court. The Judge acquires respect for himself and his employers, by the integrity and impartiality of his

 proceedings.

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proceedings. In short, the certain knowledge which pervades the zillah, that justice is obtainable in a convenient part of the district (even by paupers), though administered slowly, has the effect of preventing the continuance of glaring abuses, and of promoting the welfare of a great part, I cannot say the whole, of the people subject to the British Government.

The disadvantages of the system are, in my opinion, as follows.

I conceive that the Government do not place sufficient confidence and authority in their judicial servants. The Regulations are too full of distrust, with a desire to guard against what are called erroneous decisions. The gradations of courts of appeal, and openings for reference to higher authorities, tend to clog the administration of justice. A zillah Judge must be cautious every step he takes; an order, worded doubtfully in a foreign language, may become the subject of reference and re-reference, to the great annoyance and interruption of his duties. Hence, as I would wish to be understood, owing to the change from implicit confidence under the old system, to one of restriction in the use of forms and niceties of judicial proceedings, it was, and is, impracticable, that the business of the courts could be done with sufficient expedition, or in any degree proportionate to the calls of the natives.

Another disadvantage, as it has always appeared to me, is that, in 1802, when the judicial system was first established, the courts were compelled * to entertain suits that originated from twelve to fifteen, and even twenty years preceding. I may fairly say, that the courts began with twenty years arrear of causes. Was it requisite that all these arrears should be tried, after the tedious forms prescribed for suits that originated in, or subsequent to, 1802? Some plan of proceeding might, and should have been devised, for hearing the causes of arrear, distinct from those of recent origin. The effect of the operation of the Regulation is this: the files of the zillah courts have been crowded with old suits; old suits are constantly taking up the valuable time of the courts; and if interested persons, I mean wealthy landholders, and others, choose to crowd the files still more, they may bring forward fictitious and obsolete claims, without end, to the great impediment of justice. Another disadvantage of the system, in my judgment, is that the Government have too long doubted the integrity and ability of their native subjects to be employed in the administration of justice. Village courts and decisions by punchayet have been wholly neglected. They do not seem to be approved of at Madras. From the want of such authority, I am convinced that disputed claims respecting the cultivation, claims between farmers and Ryots, and generally all apparently trifling matters of current concerns, remain unsettled, to the infinite inconvenience of the Ryot, and cannot be made the subject of reference to a higher court, or left unsettled till the file of other causes shall have been disposed of.

The want of village courts and decisions by punchayet, for the redress of inconsiderable assaults and affrays, and other petty injuries, is severely felt by the people. I can speak confidently, when I affirm that the inability of the people to find proper redress for such wrongs is considered as a crying injustice throughout the country. According to the present system, the parties aggrieved have not the option of referring their complaints to any power except to the zillah Judge: they can have no hope of obtaining redress from any other authority.

I was so sensible of the hardships felt by the people in the centre division, that previous to my leaving India, I submitted the draft of a Regulation for the establishment of village punchayets for the redress of petty complaints. I did not remain long enough to search the records, to learn whether the regulation was approved; or if disapproved, the grounds for its being rejected.

Question.	*Answer.*
If you are of opinion that this system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts, or the scale of establishment,	I am not aware that the expenses of the Judicial department can be considerably diminished. It would not, in my opinion, be wise to reduce the number of the courts below the number

* Vide Regulation II, A. D. 1802.

blishment, particularly in the native servants and their allowances, for those courts?

ber fixed by Sir George Barlow; neither do I conceive that the native establishments, or their allowances, should be reduced. These establishments underwent a careful revision by order of Sir George Barlow: several reductions took place, and a standard was fixed for each zillah and provincial court. It seems to be the duty of the auditors, at home and abroad, to see that the charges are not suffered to exceed the standard.

Question.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Answer.

I am of opinion that the commercial class and the middling ranks of the people, as the small Zemindars or farmers of the public revenue, will be improved in their condition by the operation of the present system. But my judgment, with respect to the cultivators of the soil, is that they will not rise above their present state; and if care be not taken to render the access of these Ryots, or labouring farmers, to justice more easy, they will in time become a prey to the farmers of the public revenue, be distressed, and relax in their habits of industry, to the injury of the public resources. I am further of opinion, that if the files of the zillah courts should become so crowded, as not to give a hope to the parties, in and out of court, of an early termination of the causes, the courts will fall into general disrepute, the people lose confidence in the stability of the system; they will complain of the heavy taxes of the courts (as of the stamps and other paper taxes), and of tardy justice, and the great independent Zemindars, who now feel the effects of the interference of the courts in the diminution of their consequence, will be ready to foment the general dislike, to the prejudice of the public opinion, and the interests of the British Government.

Question.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Answer.

Generally speaking, I believe that the natives confide more in the uprightness of European Judges than in Judges appointed from their own people. But it would, nevertheless, be wise, in my opinion, to give the natives a greater liberty than they now possess. I mean the liberty, in certain cases, of referring their claims to native judges, appointed from their own people. Under the existing system, the natives have not the option of doing so. A decision passed by a village court or punchayet, duly appointed and chosen by the parties in a suit, according to ancient Hindoo usage, would not be recognized nor enforced by a zillah court.

Question.

Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administration of justice, and how far; or, more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

Answer.

I am of opinion that the natives may, in respect to integrity and diligence, be trusted with the administration of justice in cases of a limited amount; but that few, very few natives can be trusted exclusively in causes of importance, i. e. without being superintended, or their decisions made liable to an appeal. On some future improvement of the system, it may be considered unnecessary that the part in the judicial branch of the administration to be allotted to the execution of the natives should be superintended by Europeans, and I think it probable that the increasing number of causes in the zillah courts may determine the Government abroad to have recourse to some plan for establishing native courts, *open to an appeal to the native law officers in the zillah courts, for accelerating the decision of the causes.*

Question.

Answers to Court's Queries.
G. Read, Esq.

Question.

Are you acquainted with the general scale of population within the sphere of one zillah or judicial court?

Answer.

I am not acquainted with the general average scale of population within the jurisdiction of a zillah. A zillah Judge is appointed to preside over a district yielding a gross revenue of about six or seven lacks of pagodas, or £280,000.

Question.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient; or do you think it would be practicable and expedient to resort to any of the modes practised by the native Government for maintaining the peace and order of the country?

Answer.

According to my judgment, the system of police established by the British Government can be rendered more perfect and efficient; and I imagine it would be practicable and expedient to resort to the modes practised by the native Governments for maintaining the peace and order of the country, *by improving the present state of the village watchers, and securing to them their just dues.* I consider it also expedient to establish a police fund, in order to cover the expense of rewards at present authorized to be paid to persons for apprehending and bringing offenders to conviction. My opinions on this subject are given more in detail, in a report which I had the honour to address to the superior court of Adawlut, and was laid before the Government of Madras in the Judicial department, in the years 1811-12.

Question.

Can you state what the limits and superficial contents were of the district in which you acted?

Answer.

I had the honour to fill the office of second Judge of Circuit in the provincial court for the centre division, and the extent of my circuit to and from the several zillahs exceeded six hundred and thirty miles.

(Signed) GEO. READ.

London, 18, Montague Street, Montague Square,
27th October, 1813.

THOMAS OAKES, ESQ.

Answers to Court's Queries.
Thos. Oakes, Esq.

Queries.

1st. What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established at Madras and the provinces depending on it?

Answers.

1st. The system of judicial administration at Madras and in its dependent provinces, established in the year 1802, has, from time to time, undergone such modifications and improvements, as practical experience pointed out to be necessary, and a code of laws, criminal and civil, is now in effective operation, highly conducive to the interests of justice The covenanted servants of the Company, to whom the exercise of these important functions are entrusted, have been selected with due attention to ability and character. The code is free from perplexing intricacies, and requires only that deliberate and impartial consideration, which, I believe, it scrupulously obtains. The fitness, efficiency, and general effects of the system, are exemplified in the beneficial consequences resulting from it, which I shall more particularly advert to, in the course of my replies on the several points submitted for my opinions by the Select Committee of the Honourable the Court of Directors.

2d. Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the

2d. I conceive that the ancient Hindoo institution of village courts (punchayet) might, with great advantage, be adopted into the system of our judicature

system, or any part of the system, introduced by the British Government?

dicature. This subject has been brought to the notice of the court of Sudder Adawlut, where it will doubtless receive full consideration.

The village courts, aptly so denominated, being composed of inhabitants of the village where the cause of action arose, were formed by the contending parties from a panel, which it was the duty of the head villager to prepare, on requisition, and present to them. Each party objected to individuals, as they were called over, at his own discretion. When a sufficient number had been mutually approved of (three, five, or seven,) they composed the court. Thus the advantages were united of having members and witnesses within reach; every reasonable obstacle to a speedy decision was removed; and, moreover, the expense was inconsiderable. The decision was referred to the Tehsildar, for confirmation or rejection. Without any intimate knowledge of the Gentoo system, it were hazardous to pronounce that the present Regulations are in all respects, with the exception I have made, preferable to that system.

It may be proper to add, that previous to the institution of our courts, the award of the punchayet was regularly forwarded to the Collector, who, if he approved the principle of the decision, as explained in a summary drawn up by the village Conicoply, who officiated as secretary to the village court, confirmed it by his signature. No award, so confirmed, has been permitted to be entertained in a zillah court.

At the time of compiling and framing laws, of which the existing code, essentially modelled on those previously enacted in Bengal, is composed, endeavours were not neglected, in view to incorporate such in practice under native Governments as might appear to be judicious, and well adapted. The research, however, would seem to have been fruitless. Their courts were represented to have been crude and defective in procedure, capricious and inconsistent, unable or unwilling to enforce the sentences. Judicatories so irregular and undefined, contained no principle of improvement, partook of nothing that could ameliorate either the ideas or exercise of justice or the state of society; unequal to the establishing rules to regulate future decisions, and too unsettled to contribute to the introduction of juster sentiments towards government, order, and public security.

Such is the picture drawn by the Sudder Adawlut of native judicature; and accordingly, when the judicial system was introduced, in the year 1802, the files of our courts exhibited causes, the subjects of which had been sources of litigation time out of mind. Of others, not unfrequently adjusted as the caprice of passion, pliancy, or venality, gave the direction.

3d. Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions at Madras, particularly the system of village courts and decision by punchayet.?

3d. In our code not a trace, I believe, is to be found of the ancient Hindoo judicial institutions: no *village court*, in other words, no *punchayet*.

4th. If this system, introduced by the British Government, is in your opinion to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

4th. I admit that, in a zillah native court, furnished with our code for its guidance, and subject to appeals from decision, justice would, in general, be administered far more correctly than at any former period of native Government; yet, in cases of importance, always the most fruitful of corruption, where dexterous intrigue with witnesses or interpolated evidence could be made to support an interested and unjust decree, so as to appear safe from detection of the artifices resorted to, I fear the temptation would be irresistible. Power, derived from high situation, and wealth, which sooner or later flows from it, are strong shields among the natives against loss of reputation with each other. Acknowledged obliquity of

of conduct is no bar to accustomed friendly and social intercourse among them, even as relates to those who have been dismissed from the service of Government, and been declared unworthy of ever again being engaged in public employment. Many such instances have come within my own knowledge. In a word, between the English character and that of the natives of India in general, no sort of analogy will be found. The latter imbibe from education and early unrestrained habits, principles, (greatly palliated by their origin,) which were ten-fold criminal in a British subject, who from infancy, is taught to respect moral obligations, and keep unspotted the ermine of justice.

Since the first institution of the judicial system many facilities have been afforded to the administration of justice, by relieving the zillah courts of causes which overburthened the files; and it may be expected, as the natural effect of settled principles of judicature, repudiating the corrupt arts formerly practised under native Governments, to render even the worst causes successful, that the spirit of vexatious ligation in the natives will gradually subside. The facilities to which I particularly allude are the extending to the provincial courts' original jurisdiction, in all causes beyond the amount of five thousand rupees. The jurisdiction of registers has been enlarged. The Mahomedan and Gentoo law officers in zillahs are now *ex-officio* head native Commissioners, whereby that duty has been raised in importance and respectability, and a stimulus given to render the discharge of it an object of desire. Native Commissioners are appointed to each zillah station, and it is in contemplation to station them in the neighbourhood, for the purpose of giving to the labouring classes of the people a convenient resort for the adjustment of differences. The causes brought before native Commissioners, though comparatively of trifling amount, form a very large proportion of those submitted for judicial process and decision. The expense to suitors is very small. With regard to others of greater magnitude before the regular courts, I do not consider the charges to be excessive, or indeed requiring much, if any diminution.

5th. What do you take to be the chief advantages and disadvantages of the British judicial system?

5th. The advantages of the British judicial system are, that it supports the administration of justice in its dearest interests; that it tends to promote peaceable dispositions in the natives, and to improve their moral character. The courts occasion a wide range of occupation to the best informed among them, and establish a connexion and dependency which cannot be unimportant. Natives, almost without exception, are eager to hold public employment, and they are well assured that the reputation, at least, of good character, affords the only chance of obtaining it; that any known breach of trust would be followed by dismission, and as the case might require, by other punishment. But though the adage be verified to them, that honesty is the best policy, aberrations from duty often occur: yet deplorable, indeed, would be the condition of human nature, if examples of virtue had no influence, and vice alone were contagious.

Objections have, by some, been made to the confining the exercise of the more important judicial duties to European Judges. I am, however, convinced of its expediency; and though dissatisfaction and jealousy may be excited by it in natives of a certain description, the respectable and most enlightened will not scruple to acknowledge that the principles of justice are maintained, under the present system, with purity unknown in former times: and I am further persuaded, as regards the natives in general, that not one in a hundred suitors, having just grounds of complaint, would prefer appearing before a tribunal of his countrymen.

6th. If you are of opinion that this system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment (particularly in native servants and their allowances) for those courts?

6th. At the period of establishing courts of justice, it became expedient to meet the expense by raising a correspondent revenue, either by a tax on salt or monopoly of that article. By the latter mode, nearly the whole amount of the judicial establishment is defrayed; and might, by further enhancing the price, be made equal to the

the full charge. I hope such necessity may not be considered to exist. It is an article of indispensable consumption, and its present cost bears rather heavily on the great mass of the people.

The finances of the Madras Government are in a prosperous state; yet should increasing demands imperiously require further resourçes, I humble conceive that to seek aid by curtailing the present means of dispensing justice, would, of all alternatives, be the most exceptionable. The judicial system, and the rights conferred on landholders by sunnuds-i-milkent istimrar, are coeval, and of intimate connexion. Those rights were placed under the protection of European courts; and I take the freedom to suggest, whether the abolition, wholly or in part, of those courts, and the substitution, partially or otherwise, of courts with native Judges, could take place, in the first resort at least, without a virtual breach of compact.

Speedy adjudication is the essence of justice. Instead of narrowing, I should think it advisable to give further assistance towards clearing the files of the different courts; which might be done as heretofore, without any heavy increase of expense, by nominating assistant Judges to courts where the state of the files appeared most to require it. The appointment to be abolished on accomplishing the aid in view.

It is of the highest importance, that the salary and pay of European and native officers of the courts should be such as fairly to recompense their labours, and to leave them no pretext for devoting any part of their time in pursuit of other gainful objects. Suitable provision has been made, in this respect, by the general scale of allowances as at present established; yet I am of opinion, that certain of the principal native officers in courts are not sufficiently remunerated. A reduction in number has occionally taken place; and I confidently rely that the injunctions and vigilance of Government would prevent excess, were I less satisfied than I feel, that the Judges, in their several gradations, are heartily disposed to give full effect to judicial functions with all consistent economy.

7th. Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

7th. Already answered.

8th. Would the natives, in your opinion, confide more in the uprightness of European judges, than in judges appointed from their own people?

8th. Certainly.

9th. Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administration of justice; and how far, or more particularly, can any branch of the administration of justice be trusted exclusively to the natives; or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

9th. I have endeavoured to shew, that in any part of a Judicial system allotted to natives their decisions should be appealable to judges in the zillah courts.

10th. Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

10th. I am not.

11th. What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient; or do you think it would be practicable and expedient to resort to any of the modes practised by the native Governments, for maintaining the peace and order of the country?

11th. The subject of police has for years past engaged much attention on the part of Government. Various changes, to improve and reduce expense in the system and establishment, have been adopted with success. The progressive efficiency of the department is fully acknowledged. At the date of my leaving Madras, many of the reports called for by Government had been received, and the rest were shortly expected, to enable the formation, as far as possible, of a general plan which will shortly be submitted to the Honourable

Honourable Court; it may therefore be thought unnecessary, meanwhile, to go into any consideration of the existing establishments. I shall only add, that the police charges, within the year 1811-12, were less, in the sum of 21,081 pagodas, than within the preceding year 1810-11.

12th. Can you state what the limits and superficial contents were of the district in which you acted?

12th. I cannot.

13th. Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit and submit it to the decision of the punchayet; or has the punchayet, at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

13th. The punchayet is not recognized by the courts of Adawlut or the English Government. Arbitration is sanctioned by the Regulations; and it has happened that, when causes involving intricate accounts, partnerships, &c. came in turn to be taken from the file for trial, the Judges have recommended the parties in the cause to withdraw the suit, and submit it to the decision of arbitrators, who were to be chosen by the Judge from persons at the station of his court where the cause is tried. They probably have no means, at a distance, perhaps, of thirty, forty, or fifty miles, whence the witnesses also must be summoned, of satisfying themselves of the truth of allegations on many material points. Delay necessarily arises, large expenses are incurred, and much inconvenience arises. Under such circumstances, the decision will probably not be so just, and certainly not so prompt, as by the ancient Gentoo system of punchayet.

The courts of Adawlut *have* recommended to parties, but generally with little effect, to withdraw suits of a particular description, as partnerships in dealings and causes involving intricacy of accounts, as abovementioned, and submit them to the decision of arbitrators so chosen. Regulation — of 1802 specifies the nature of suits already stated (the cause of action exceeding two hundred Arcot rupees), which it is the duty of courts to recommend to the parties to submit to *arbitration*. Thus, as I have said, arbitration has been recognized by the courts of Adawlut and the English Government. The same Regulation enacts that the award shall become a decree of court, and not be set aside, except on full proof that the arbitrators have been guilty of gross corruption or partiality in the cause.

As a suit cannot be withdrawn but by mutual consent, the party who has least confidence in the goodness of his cause, or knows it to be a bad one, may, perhaps, rely on its being next to impossible that a Judge should find time thoroughly to investigate it. To such a person the certain delay and chance of a favourable decision will be inducements to withhold consent to his cause being taken from the zillah file, for the purpose of submitting it to trial by arbitration.

If *arbitration* were made subject to the constitution of the *ancient punchayet*, the difference between the two would, of course, be merely nominal.

As connected with the general subject, I take the liberty to offer a few observations. And, first, with regard to alleged delay in the administration of justice, it is to be remembered that, by the retrospective cognizance given to the courts, they opened under the disadvantage of a heavy arrear, from which the files have not yet been cleared. The facilities which have been given, those about to be afforded, and others submitted for approval, must have the best effects in accelerating judicial decisions, both in the minor causes tried in the first instance by natives, and those submitted to higher tribunals. In our Indian circles it has often been propounded, whether the natives, in general, prefer the British judicature to that formerly exercised under the Gentoo system; and the prevailing opinion is, that a large majority ranges on the side of the latter, because the mass of petty suits, affecting principally the lower orders, has neither been so expeditiously or cheaply decided as before. The same sentiment will attach to, and be infused, not only by numbers of the higher classes who would gladly participate in the dispensation of justice under the former code, but also by others, who from relaxed principles are impatient of restraint, and obstructed in the career to which they naturally lead. On the other hand, no doubt

Answers to Court's Queries.

T. Oakes, Esq.

doubt has ever been entertained as to the far greater respectability of our courts, than could be maintained even by the most amended change, if superintended by native Judges. Subordinate officers will take the impression of conduct from their immediate superiors. The character of our judicial proceedings, untainted by any surmise of corruption, stands high in general esteem, checks the train of irregular passions which a different state of things would engender, and by improving the morals of the people, contributes aid to the guardian care of Government for the preservation of peace, order, and security.

(Signed) T. OAKES.

6 November 1813.

EXTRACT *of* LETTER *from* GEORGE BUCHAN, Esq. *to* CHARLES GRANT, Esq. *dated Kelloe, 28th December*, 1813.

Answers to Court's Queries.

G. Buchan, Esq.

I take the pen in hand to frame a reply to the questions which I received from the Committee; but I have found that any answer that I could send must be in such general terms, that I cannot reconcile to myself the thought of sending it. No opinion on such a subject can be valuable, that is not founded on the most distinct grounds; and I have no materials within my reach to enable me to state such grounds. Any thing that I could say would be merely in the way of general remark, and of opinion, unsupported by proofs, to which I could have no right to expect that any attention would be paid. I really should not feel it pleasant to be the author of a reply of that kind.. My own feeling in the discussion of important matters of this kind is, that general reasoning goes for nothing, if not backed by something more substantial, and here I have unluckily nothing more to offer; I should not, therefore, like to appear before the Committee in such a shape; it would not, perhaps, be even very respectful to them to do so.

In a general view of the question, I have always considered the establishment of the courts of judicature as one of the greatest blessings that we have conferred on our Indian population. I recollect hearing the punchayet plan suggested when I was in India; but I have not seen any of the arguments (at least I cannot now recollect them) on which its advocates ground its expediency. I am, therefore, incompetent to express any opinion on the measure; but I do not understand how it can be proposed to dispense with European superintendence. It must, I think, be obvious to any one acquainted with the Indian character, that a native court, not controlled by any such superintendence, must become a scene of intrigue and corruption. If efficiently controlled, perhaps an institution of that kind might be beneficial, and might have the advantage of rendering justice more accessible; but I feel the strongest conviction that no salutary consequence would be produced without European agency. The present system is certainly expensive; but I much doubt the practicability of materially lessening that expense, at least at Madras. Several zillah courts were discontinued in the plan of reduction that was going on when I left India; and I remember it appeared, at that time, quite unadvisable, to lessen further their number. Indeed, the range of each zillah was then much too extensive (at least it was so in general), and it would have been for the advantage of the country, if considerations of expense could have admitted of an increase instead of a diminution. I recollect, also, that the establishment of the different courts seemed to be modified on the lowest practicable scale, for it is clearly essential that both the Judges and their native officers should receive adequate salaries. A different arrangement would be sadly mistaken economy, and would lead to effects incalculably pernicious. Indeed, I recollect that, in one or two of the courts (particularly the zillah of Masulipatam), further assistance appeared to be urgently wanted, from the arrear of business that was accumulating; a Judge and a Register seemed to be quite unequal to the whole duty. I also think that the same inconvenience was experienced at Trichinopoly; and I have little doubt but that there were many of the other courts that suffered under the inconvenience, though perhaps in a less degree. I cannot now recall the particulars, and I do not know if any thing has been since done; but, so far as I remember, it was in contemplation, at that period, to nominate

Answers to Court's Queries.

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assistant Judges in particular cases. All this strongly shews the confidence attached by our native subjects to those courts; though of that, indeed, there could not be a doubt in the mind of any one at all acquainted with the state of our Indian possessions. It also, I think, tends to show that much (if any) reduction of expense is not to be expected, if the present system is continued. Whether the present system can or cannot be changed, is, as I have already observed, a question which I do not feel myself competent to answer; but it is my decided belief, that under any change or modification of the present institutions, there can be no efficiency or security, unless the most vigilant European superintendence shall form the basis of the superstructure.

As I should be very unwilling to do any thing that might have the appearance of disrespect to the Committee, I should be still glad if you could, without impropriety, mention a word in explanation of my silence. The real cause is, that I can send no answer, under the circumstances I have related, that would be satisfactory, either to the Committee or to myself. Though I have ventured to state to you, in a general way, my ideas, they are merely general, and are not of a kind to answer specific queries.

J. G. RAVENSHAW, ESQ.

Answers to Questions submitted by the Judicial, Political, and Revenue Special Committee at the East-India House, for the Consideration and Opinion of Mr. John G. Ravenshaw, of the Madras Civil Service.

Answers to Court's Queries.

J. G. Ravenshaw, Esq.

As these questions relate entirely to the judicial system existing in the territories dependent on the Madras Government, and as I have not at my command a copy of the laws or regulations under which that system is administered, or indeed any papers whatever to refer to, I cannot answer them with satisfaction to myself, or I fear to the committee. My replies can only be of a general nature: but if there should, fortunately, be any hints in them which may excite the notice of the Committee, and render them desirous of more particular information on the subject, they may rely upon my readiness to give it on my arrival in London, where I propose being in the course of this month. I shall, without further comment, proceed to reply to the questions, as they are stated in the paper enclosed in Mr. Dalmeida's letter of the 27th ultimo.

1st Question.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration in Bengal and the provinces depending on it?

Answer.

I beg these may be considered as applying to Madras only. I am not sufficiently acquainted with Bengal to be able to say how far they may apply to the system there.

It is impossible to say too much in praise of the motives of those able and upright men who were instrumental in introducing the judicial system, though to particularize those motives would be superfluous, as they must be so strongly impressed on the minds of all those whom I now address. I shall, therefore, merely observe, that to substitute regular Foujdarry courts, for the trial and punishment of offenders against the public peace, in place of the irregular and arbitrary mode of treating them which previously existed; to separate the judicial from the fiscal functions, particularly in cases of a revenue nature; to provide, as far as possible, and consistent with the habits and customs of the natives, for a uniformity of proceeding and decision in all courts of justice, instead of leaving them, as was the case under Collectors, to the will and caprice of individuals; to render their access to justice as easy as possible; and, in short, to extend and provide for the efficient protection of the natives, in all their rights and all their customs essential to their happiness, were measures so paramount and incumbent on their rulers, that it is only matter of surprise how they could have been so long delayed.

That the judicial system, introduced in consequence, is susceptible of improvement, by amending some parts of it, as well as by enacting such new laws

as

as are necessary to facilitate the full and complete operation of the whole, cannot be denied. As it stands, however, it is capable, if it was in full effect, of answering, in a great measure, all the ends proposed by it; but it is yet even only in its infancy, some of the most important parts of it have scarcely began to operate. It cannot, therefore, in its present state, be considered either as fit or efficieut, and hence the general effect is, that the natives find justice is merely placed within their view, not within their reach, and that a large majority of them prefer a sullen submission to wrongs, to encountering the novel and complicated forms of a court of justice, the ruinous expense of fees, stamps, &c. which must be incurred, and the loss of time, which must be sacrificed at a distance from their homes, before they can obtain redress.

In saying thus much, I beg I may not be understood as deprecating the system itself, for I have no hesitation in pronouncing, that our present Indian constitution, in its general principles, is the proudest monument of wisdom ever erected in india; that the Regulations, as they stand at present, are capable of rendering the system, in time, in a great measure fit and efficient; that they require only a few alterations and additions, to make it as perfectly so as human institution can be; and that, when the full benefits of it are generally felt, as well as seen, the natives will consider it as the greatest blessing ever conferred on them.

However strenuous an advocate I am, therefore, for removing the impediments which obstruct the full operation of the system, for amending some parts of it, and adding others, with the view of more effectually accomplishing the great object of rendering justice as speedy and accessible as possible to the great body of the people, yet I should consider myself highly criminal, if my views extended to the abolition of the system itself.

Such amendments, I conceive, the able men with whom originated the system had as much in view as the introduction of it. They never could have supposed that, in the detail of such a novel and complicated structure, they had all at once pitched on perfection. They were satisfied, I conceive (and well they might have been), with the justness of the general principles by which they were guided, and they looked to a gradual approximation to perfection, as experience, and the habits and customs of the natives might suggest improvement. Much in that way has been done, more has been suggested, which will in time, I have no doubt, be adopted; and, as further experience teaches us, much will still remain to be suggested. The best system of justice ever known, has gradually approached perfection in the same way. The inevitable fallibility of all human institutions forbids us to expect to reach it in any, and teaches every reflecting mind to be satisfied with the nearest possible approach to it.

There are men, and not a few, who taking only a cursory view of the subject, hearing continual complaints from the natives of the difficulty, nay impossibility, of obtaining redress under the existing state of things, and perhaps chagrined at the diminution of their former authority, or experiencing more difficulty than usual in carrying on the duties of their stations under the judicial system, have no hesitation in pronouncing it totally unfit for India. Some or other of these are, too frequently, the real grounds of the objections made by such people, though they are commonly marked under the more plausible one of the heavy expense of the institution. Such men, however able (and many of them are so), at any rate, I conceive, mistake the defects in the system, and the difficulties which have been experienced in carrying it into full effect, for great fundamental errors in the first great principles of it, to which I have never yet heard one solid objection.

The imperfections in the system which require more immediate correction are:

1st. That the road to justice is obstructed by too many forms, and too much record; as well as,

2dly. By too great an expense, and too great an occupation of the time of individuals.

The

Answers to Court's Queries.

J. G. Ravenshaw, Esq.

The perfection of laws consists less, perhaps, in declaring just principles, than in applying them to the existing habits and customs of the people to be governed by them; more particularly when those habits and customs are so stubbornly fixed, as they are in our Indian subjects.

When we consider the widely distributed state of landed and all other property in the peninsula, the many thousands to be protected in the possession of the little they have, the lamentable and inveterate system of encroachment on that little, which existed, and has been encouraged, even by the many ages, I may say, of arbitrary rule which preceded the present constitution, as well as the numerous religious and other customs and privileges of the natives, which equally claim protection, it may be easily conceived, that the causes of complaint arising out of such a state of things, must be by far more numerous than the zillah courts, widely scattered over the country as they are, can possibly attend to. And when the multiplicity of the forms and process of those courts, the expensive barrier of fees, stamp duties, and other charges, through which justice is to be approached, as well as the fact that the complaints of the great body of the people are under ten pagodas value (many hundreds of them not half so much) are also considered, it is not surprising that being unable to spare the time and money necessary to encounter those barriers, the natives should complain, as they do, that they have only a mere semblance of justice.

To render justice as speedy and easily accessible as possible to these people, is equally essential to the security and permanency of the public revenue: for almost every individual contributes to it directly, more or less; and in proportion as they are unprotected in their little rights and privileges, so will the finances of the state fall short, and the realization of even a diminished revenue be precarious. It should never be forgotten, likewise, that while at least fifty per cent. of the gross produce of land is taken as the customary tax of Government, it is the more incumbent on the state to secure the remaining fifty to the people; which, God knows, is little enough, if enough, even in a country where wants are so few, and so cheap to provide for the common maintenance of a large family, which most have, and to meet the expenses of agriculture.

I have already pointed out what I conceive to be the material imperfections in the system, and shall now offer such suggestions as appear to me calculated to correct them; for I am not one of those desperate reformers, who would overthrow a constitution altogether, because it is susceptible of improvement.

Without entering into particulars, which the want of documents prevents my doing, I am satisfied that the forms and process of our zillah courts might be sufficiently curtailed and simplified, to render *them alone* no longer an impediment to an easy access to justice.

The expense attending a suit at law might also be much diminished by a reduced scale of fees, and the abolition of the use of stamp paper, in all suits for an amount less than *ten*, or even *twenty*, pagodas. Both these expenses were, I believe, originally introduced, and have since been *greatly increased*, with the declared view of checking litigious complaints. It would have been more honest to have avowed the real view of the stamp duties, which would seem, and I know the natives believe, to have been "*raising the revenue*." The law, in the first instance, provided a sufficient check to litigious complaints, by rendering the complainants subject to a fine. If the amount of such fine was found insufficient, it might have been increased; but why accumulate the amount of it *before trial*, by additional fees and stamp duties, to such an extent as to render it beyond the means of eight in ten of the natives to meet it? and why impose it on all, whether their complaints are litigious or ever so well grounded? Having rendered the legal process as simple and little expensive as possible, nothing more will be necessary to place a prompt redress of grievances within the reach of the great body of the people, than to remove the impediments I have alluded to as obstructing the full effect of the existing laws, and to enact such new ones as may tend to facilitate the object in view.

The Regulations already provide for the appointment of native referees, arbitrators, and Moonsiffs, who are all constituted commissioners for hearing and deciding

deciding petty suits. The powers of some of these officers are confined to such cases as are referred to them by the Judges; but others can take cognizance of, and decide them in the first instance, subject to an appeal to the zillah court.

Nearly eight out of ten, I believe, of the grievances of the great body of the natives are of such a petty nature, as to fall within the cognizance of these native Commissioners. This, therefore, is the branch of the system which should be perfected in every way which can be devised; for to it alone the great majority of the natives must look for that easy and speedy redress of grievances, which it is so sacredly incumbent on Government to secure to them. But it is, unfortunately, this branch of the system which is so deficient, and which it has been found so difficult to carry into effect. Men have not in some cases, perhaps could not be found of sufficient integrity, and in sufficient numbers, to fill the situations of Commissioners; and though it has been frequently suggested, that the services of Collectors' Tehsildars might be most successfully made use of in that way, and Government has approved the suggestion, yet when I left India not one Tehsildar in South Arcot had been appointed a Commissioner. I am inclined to believe the Judges, knowing the great want of integrity among the natives, and their own inability to control them, confined as they are to one spot, have been the reasons why greater progress has not been made in perfecting this important branch of the system. If so, it is evident that a more efficient check than the Judge is necessary.

The selection and appointment of an ample number of Commissioners, of all descriptions, with a vigilant control over them, and the adoption of another measure I shall immediately suggest, are all that appear to me necessary, when the other impediments I have alluded to are removed, to place the mass of the people within the reach of a speedy redress of grievances. From among the revenue servants and principal inhabitants, I have no doubt such selection might be made, and their efficiency secured by a vigilant control. Conceiving, however, that the authority of the Judge will never be a sufficient check over such Commissioners, I would call in the aid of Collectors, not only for that but for assistant judicial purposes. With the exception of fiscal cases, in which they are themselves parties, they might be empowered to hear in the first instance, and decide finally on all suits under a limited amount, say ten pagodas, or even twenty; to hear and decide on all, with a similar exception, under fifty pagodas, subject to an appeal to the zillah Judge; and to hear, and finally decide all appeals from the native Commissioners. It should, in that case, be made part of the Collector's duty, not left to his discretion, to make stated tours of his districts, for the purpose of hearing suits himself, and controlling the conduct of Commissioners. I should expect more real good to result from such powers, placed in the hands of an upright and able Collector, than from any part of the system. It would keep the native Commissioners in awe, and oblige them to be circumspect and just in their inquiries and decisions. It would, more than any thing, deter the superior from oppressing the inferior inhabitants, not only by giving them confidence in themselves to resist oppression, but by affording them frequent opportunities of obtaining redress on the spot, if they should at any time be unable to resist it. I conclude, by this time, a permanent village-settlement has been introduced in all the zillahs under the Madras Government, where the zemindarry system did not previously prevail. In that case, I can see no objection to Collectors being vested with judicial powers, to the extent I have stated; for they cannot be more interested than a Judge (in cases in which they are not, as the revenue officers of Government, a party in a cause), and the probability is that, from their local knowledge of the rights and customs of the people, they are far better qualified. The Regulations, indeed, admit the principle of vesting such powers in revenue officers, by naming Tehsildars the first among the description of persons from whom the native Commissioners are to be selected. I am far from meaning that indiviual will and caprice should guide Collectors in such cases, but that they should be bound to administer justice under the Regulations, in every respect as Judges are.

As a means of facilitating and accelerating decisions on appeals from the zillah Judges, it seems advisable that the Judges of the provincial courts should,

when they go their circuits, hold a *civil* as well as a criminal court, and decide in the former all appeals under a certain amount. Most of them have full time for doing so already; and as crimes diminish, as they are doing fast, all will have ample leisure. This measure would save the zillah Judges much time and trouble, as the *original* proceedings on each case, *without a translation* into English, would be sufficient to lay before the Judges of appeal, and it would be still more beneficial to the parties and witnesses.

Adopt the measure here suggested, or any others better calculated to ensure the same ends, and keep the system active by a vigilant control, and I have not the least doubt but it will prove as fit and efficient as human institutions can be, and be hailed by the natives as the greatest blessing ever conferred on them.

Speedy injustice, even with the great body of the people, whose grievances are of the trivial nature I have described, is considered as far preferable to protracted justice. There is no occasion, however, to run any unusual risk of being unjust. Promptness and ease of access to, are not incompatible with justice, in cases like theirs.

A wise, energetic, and unceasing control over the whole, is essentially necessary: without it, no system can succeed. The Judges of the Sudder Adawlut should not only be able, but active and experienced men; and they should be relieved, as much as possible, from all extra duties at the presidency, such as sitting on juries, committees, &c. so that the greatest possible portion of their time may be devoted to their judicial functions. Much caution is also necessary in the selection and promotion of the district and provincial Judges. Merit should be the principal, if not the only guide to both: for it may be relied on, that whenever they are superseded by men of no superior pretensions but interest, it will disgust and render them indifferent, at least, as to how their duty is done.

2d Question.

Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Answer.

I am decidedly of opinion, that no ancient Hindoo institution could be wholly substituted, with advantage, for the system introduced by the British Government. But that part of the British system which provides for the appointment of native referees, arbitrators, and Moonsiffs, is of Hindoo origin; and I have already stated my opinion, not only that the greatest advantages may be derived from it, but that to it we must look, in a great measure, for the accomplishment of the objects designed by the new British constitution.

3d Question.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by punchayet?

Answer.

The British judicial system has superseded all ancient Hindoo judicial institutions, except such parts of them as are incorporated in it. Punchayet courts may, possibly, have existed in every village; but, under the English Government, they were generally confined to the evidence of a Tehsildar, and even to that of his superior, the Collector. A punchayet court differed little from what a court of arbitrators would be under the existing Regulations; with this particular and striking difference, that the former being guided by no fixed general rules, their process and decisions varied with individual opinion, and thence they became the source of most lamentable corruption.

4th Question.

If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any meliorations, that would accelerate the decision of cause, would render the access of the natives to justice more easy, would simplify in

Answer.

This has been fully answered in my reply to the first query.

the proceedings and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

5th Question.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer.

The advantages expected, and which will be derived from the British system when it is efficiently introduced, I have stated in my first reply, as well as the disadvantages under which that system at present labours, and its defects. I have also suggested such remedies as appear to me calculated to correct them. More, I conclude, is not required; unless it is a comparison between the advantages of the *present* and the British system which *preceded* it, which are so prominent and glaring in favour of the former, as must be evident to the enlightened minds of the Committee, that I will not prolong these remarks by enumerating them.

6th Question.

If you are of opinion that this system should be continued in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment (particularly in native servants and their allowances,) for those courts?

Answer.

So far from thinking the expense of the present system could with propriety be diminished, either by reducing the number of courts or the scale of establishment of native servants, I am decidedly of opinion that, if the expense could be borne, great advantage would be derived from increasing the number of courts, and that the allowances of native servants attached to those courts have already been reduced so low, that scarce any security for an upright discharge of their duty remains. The more European control, the more efficient the system must be; provided the European officers are able and zealous, and it rests with the Government to see that they are so. It was with this view I suggested the propriety of vesting assistant judicial powers in Collectors. The allowances of native servants in the revenue line are, and must continue, so much higher than those now receive who are attached to the zillah Courts, that men of sufficient ability and integrity cannot be found to fill the law appointments; and it will be almost miraculous if very general corruption does not ere long prevail in that department, however long it may be before it is brought to light.

7th Question.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinion of the people?

Answer.

I have already given my opinion, that as soon as measures shall have been taken to give full effect to the system, and it thence becomes so thoroughly efficient that the natives cannot only see, but feel, the benefit of it, they will hail it as the greatest blessing ever conferred on India. Security of person and property are the first and dearest rights of man: without them every thing is anarchy and confusion. Fraud, deception, and violence, are so common, they become habitual. Individual will and caprice, naturally followed by every species of rapacity and atrocity, lord it over a country in such a state, with unrestrained and increasing violence. Such, and worse if possible, was the state of India until it came under British rule. Our constitution, before the introduction of the judicial system, certainly corrected those evils in some measure, and individual zeal and ability, in a great measure in particular provinces; but for want of defined and general rules of conduct, they too commonly prevailed. The judicial system provides the general rules so much required. Individual property will be secured and accumulate under them. Civilization will advance, and a state of general happiness and prosperity will follow, equally advantageous to Government and its subjects.

8th Question.

8th Question.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Answer.

I cannot contemplate the time when the natives will confide in the uprightness of Judges appointed from their own people, unless they are subject to the controul and check of Europeans.

9th Question.

Are you of opinion, that the natives may, in respect to integrity and diligence, be entrusted with the administration of justice, and how far; or, more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

Answer.

The answer I have given to the foregoing question is a sufficient reply to this. I have seen and known in punchayet courts in Canara, as able and diligent native Judges as exist, I believe, in any part of India. As far as ability goes, they are equal to any task in that way; and in discriminating the motives of action, and the degree of credit to be given to the evidence of their countrymen, they surpass most, if not all Europeans. But their integrity was always very questionable: so much so, that I seldom referred any but cases of complicated mercantile accounts to them; and, as a check, they always held their courts in my own or the nearest Tehsildar's cutchery, with directions, in all possible cases, to come to a decision without separating.

10th Question.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Answer.

My recollection does not enable me to give a sufficiently correct answer to this question; but a reference to the statistical accounts, sent in annually by Collectors, which must be on record at the East India House, will furnish the information required.

11th Question.

What is your opinion concerning the system of police established by the British Government? can it be rendered more perfect and efficient, or do you think it would be practicable and expedient to resort to any of the modes practised by the native Governments for maintaining the peace and order of the country?

Answer.

No general police system has been established under the Madras Government. A local police Regulation for zillah Chingleput was passed in 1803, I think, and some Regulations on partial police matters have been enacted since; but a general police system is yet, and much wanted. The subject has been repeatedly discussed, and many able reports on it have been given in to Government. We have in the village Taliars and other village officers, aided by the revenue Tehsildars and other district officers, and in many of the modes practised by the native Governments, as good a foundation for a system of police as can be wished; but the natives in this, as well as in judicial cases, require to be placed under strict European control. At present, they perform their accustomed police duties under the orders of the zillah Judge, who is also magistrate; but the revenue servants in all cases, and the Taliars in many, are also subject to the Collectors' orders, in matters not strictly of a police nature. This is all wrong, inasmuch as no man can well serve two masters, and as great confusion and inconvenience arise from a divided, irregular, and undefined authority.

However proper it was to separate the fiscal from the judicial functions, especially in cases of a revenue nature, I confess I never could see any good reason for so separating the magisterial duties, except that of affording Collectors more time to attend to their important revenue duties. But it might have been urged, with equal or greater reason, that continuing those powers in Collectors would have given the Judges (what is far more wanting) greater leisure to attend to their judicial functions. I remember this subject was agitated during Lord William Bentinck's administration; and he was so satisfied of

of the importance of the measure, that he proposed to the Bengal Government to restore the magisterial powers to Collectors. A very able reply, certainly, disapproving of the proposal, was returned; but, I recollect, it by no means satisfied me of the impropriety or impolicy of it.

Answers to Court's Queries.

J. G. Ravenshaw, Esq.

When the permanent village-settlement is introduced, Collectors will have ample leisure to act as Magistrates as well as assistant Judges; and there are many reasons why they should be more efficient Magistrates than zillah Judges. The principal reasons are, that they are frequently moving about their zillahs, whereas Judges are always stationary; and that the village and district officers, who must, I imagine, form the foundation of any system of police, will be under one, instead of a divided authority. At any rate, the services of Collectors, in aid of the police system, might be most advantageously resorted to; not as was done by a late Regulation, by directing them to furnish supplies to troops marching through their districts, without giving them power to enforce their orders for providing such supplies (which was as singular an instance of legislation as it was nugatory, not to say worse of it) but by assigning to them the whole or any portion of the police duties, and vesting in them as full and ample powers to perform it as zillah Magistrates themselves have.

12th Question.

Can you state what the limits and superficial contents were of the districts in which you acted?

Answer.

About eighty miles long by as many broad, or 6,400 square miles, i. e. South Arcot. Canara zillah is full twice as long and about half as broad.

13th Question.

Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit, and submit it to the decision of the punchayet; or has the punchayet, on any occasion, been recognized by the courts of Adawlut or the English Government?

Answer.

I am not certain, but I have little doubt, that some of the courts have recommended parties in a cause to withdraw their suits, and submit them to arbitrators, under the existing regulations; and as these arbitrators are the same description of men as composed punchayet courts formerly, the adawlut courts may strictly be said to have recognized punchayet courts. Some adawlut courts (Verdachellum, for instance) are so situated, that they have not a command of men at hand of sufficient ability to act as arbitrators, and few, I imagine, have trusted such people to hold a court at a distance from their own.

(Signed) JOHN G. RAVENSHAW.

Bath, 15th January, 1814.

A. FALCONAR, Esq.

Answers to Court's Queries.

A. Falconar, Esq.

Fitness.

Query 1st.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established at Madras and the provinces depending on it?

Reply.

The system of jurisprudence established, with the approbation of the authorities in England, for the administration of justice in the territories subject to the presidency of Madras, being founded on the judicial institutes and local constitutions of the Indian people, Hindoo and Mahomedan, attempered, and doubtless in several instances ameliorated, by the mild spirit of the British law; being incorporated into a code of Regulations prepared under the advantages of great erudition, experience, and local knowledge, and studiously adapted to the peculiar sentiments and customs of the people; being printed and published, with translations, in the several dialects of the country, for the general information of its inhabitants; being, moreover, expounded and dispersed by the native professors or doctors of their laws, under the superintendance of British Judges; and each and all of the judicial functionaries being as far removed from motives to corruption, as the enjoyment of liberal salaries, and every incentive to zealous, faithful, and honourable conduct, can be sup-

posed to place them; such a system should, on general principles, seem to be entirely congenial with the object of its institution, and actually is, so far as my experience has enabled me to judge, well adapted to the people among whom it is administered.

It is true that various plausible objections have been urged against the system of judicature as it now exists; some of them by able and respectable writers, and many of them advanced with such a semblance of reason and intelligence, that to those conversant with the subject, no small degree of practical knowledge and experience is requisite, to combat and oppose the specious force of their impression.

In the incipient state of so important, extensive, and complicated a system, of which the grand outlines only could at first be traced (but traced by most skilful hands); where, superadded to the intrinsic difficulty of an abstruse science, the legislators, the judges, and the people, had also to encounter the formidable obstacles of new laws, languages, manners, opinions, and prejudices; where the previous state of the society exhibited a heterogeneous mixture of law, caprice, and tyranny, as regarded the native population, and an almost unrestrained latitude of action, as regarded the military and mercantile classes of the European community; under such circumstances, the progress to perfection of a new system must necessarily be slow and gradual, and the restraint of their early operation be galling and ungrateful. Experience will develop defects, practice will suggest improvements, new cases will generate new provisions, and the system must *gradually* grow to maturity. But where the policy of a humane and liberal Government is evidently to rule their subjects in the spirit of their own institutions; where some of the most eminent statesmen and legislators of our nation have concurred in the practical wisdom and expediency of the general plan; where the collective talents and energies of an enlightened body of upright functionaries have been, sedulously and successfully, devoted to the satisfactory execution of that object; I should strongly suspect the motives, opinions, or information of those, who would treat the subject with a sort of respectful sarcasm, pronouncing the whole apparatus to be *nugatory* and the system to be radically *wrong*.

It has been objected, that the selection of the criminal code of the Koran (the most defective and inapplicable of all others), and the adoption of it for the Hindoo portion of our oriental subjects, in preference to the law of England, if any other law was to be substituted for the penal institutes of the people themselves, as contained in their own shasters, was a most grievous *innovation;* a proceeding equally hostile to sound policy and to genuine humanity. It is contended, that the *English* law was not only intrinsically preferable, but prescriptively *older* than the Mahomedan, but that the still more ancient and indigenous Hindoo law should have been preferred to both the others; and the immediate adoption of it appears to be recommended, both in the civil and criminal jurisdiction, as being more efficient and congenial than the juridical system instituted by the British Government. This system is denounced as being fundamentally erroneous, its regulations terrific and odious, its operation complex, laborious, expensive, and nugatory. It is blamed, as sanctioning imprisonment for debt, contrary to the codes and customs of the people of India, and as treating with inattention or contempt the distinctions of caste. The rules of the Hindoo code and common law of India, administered by the punchayet or *Indian jury*, as it is denominated, is considered to be better adapted to the condition of the Hindoo population; and the merit is assumed of introducing, for the first time, to the British public, the notice of this mode of adjudication.*

I beg permission to request the attention of the Honourable Committee to a few observations on some of the stated objections.

Previously to the establishment of provincial tribunals of justice by the British Government in India, the native inhabitants, besides labouring under many other misfortunes, may be said to have been without any fixed law or definite rule of deciding right and wrong. It is true that, at the respective presidencies, British courts had been erected, under the authority of his Ma-

jesty

* Wilks's Historical Sketches of the South of India, Appendix, No. 3.

jesty George the Second,* under the designations of the "Mayor's Court" and the "Court of Requests," for the benefit of his Majesty's subjects; in which it was directed, that natives of India, also, living within the jurisdiction, should, in matters of caste, inheritance, &c., be judged according to their own laws. But the influence and operation of these courts were very limited, and beyond the precincts of their jurisdiction at the respective presidencies, all was misrule and arbitrary sway: the Hindoo, the Mussulman, or the English law, was adopted or rejected at the will of the ruler, or of the more powerful or more opulent party, and all, or either, were made subservient to his purpose.

The paternal solicitude of the British Government saw the necessity of a better order of things. Their benevolent policy having induced them to bestow on their native subjects a proprietary right in the soil, to render the boon really valuable they deemed it necessary to secure to them that property, and the unmolested enjoyment of their civil and religious rites, by the establishment of fixed, equitable, and acknowledged laws.

The existing laws of the people obviously appeared the most eligible, in so far as they were not manifestly unreasonable and repugnant to the principles of natural equity. The *civil* law of each sect was accordingly recognized and adopted, Hindoo and Mahommedan; but a dilemma occurred with respect to the *criminal* code.

I am here led naturally to advert to the imputed innovation and inexpediency of establishing generally the Mahomedan *criminal* code, and to the alleged anterior prescription in the south of India of the English law.

It will be known to the Honourable Committee, from the testimony of the Mahommedan annalists, that the Hindoo principalities, situated between the *Indus* and the *Ganges*, were overwhelmed by the flood of Mahommedan conquest in the eleventh and twelfth centuries of our era. The princes of the Hindoo dynasties in the Deccan, and some of the more southerly provinces, were not rendered permanently subservient to the Mussulman yoke before the year 1326. Anterior to this period even, by means of an intercourse between the coasts of Malabar and Arabia, the religion and law of Islam were introduced on the south-western shores of the peninsula, and almost all the remaining thrones and altars of that region were, by a consecutive series of irruptions, subjugated to the Mahomedan dominion, by the end of the sixteenth or early in the seventeenth century.

The political economy and general maxims of government of the victors, were uniformly substituted for that of the vanquished; and several centuries have elapsed, since the statistics and politics of the Hindoos, judicial, military, and financial, have fallen into desuetude.

With regard to the prescription of the law of England, its operation was confined among the original English settlers on the shores of Coromandel. It was extended to the native inhabitants of the environs of the presidency by charter, in the twenty-sixth year of his Majesty George the Second; but the dispensation of it among the *natives, generally*, of the provinces subject to *Madras*, was not sanctioned by the legislature until the thirty-ninth and fortieth years of the reign of his Majesty George the Third, nor actually so administered till the year 1801. If these premises be correct, the inference is evident, that the adoption of the criminal code of the Koran, as regards the Hindoo people, *was no innovation* of the British Government; and that the English law is *not*, in the south of India, with reference to the native population, by any means so old as the sherra, or Mahomedan law.

After the most deliberate discussion of this highly interesting question, with a conscientious impression of the deep interests it embraced, it was determined by the ruling authorities, that in the criminal jurisdiction, as the ordinances of Mahomed had for ages been the general standard of decision for Hindoos as well as Mahomedans, it was the wiser and safer policy to continue and improve that law, still existing, and sanctioned by immemorial prescription, than to revive the obsolete code of Hindoo criminal law, ill-adapted, indeed, to the actual state of society, and which had been for centuries exploded. It was admitted,

* Anno Regni 26.

Answers to Court's Queries.

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mitted, that the Mussulman code was, in many instances, defective and irrational; but in all such cases it was the prudent determination, and it has accordingly been the diligent care of the British local Governments, to amend and provide by such expedients as supplied a remedy, without encroaching on the reverence, or alarming the predilection of the people for their own law.

To have pursued any other course might, perhaps, have justly subjected the Government to the charge of infringing the institutes and usages of the natives. Had the criminal law of England, for instance, been substituted for that of Arabia, as recommended by one of the writers to whom I allude,* on the untenable ground of its being intrinsically preferable and prescriptively *older* than the latter; that would have really been an *innovation* on the laws and usages of both Hindoos and Mahomedans, subjecting a body of forty or fifty millions of men to a new criminal code, and which, in some instances (the penal inflictions for larceny, for example), has been considered more inexorable than even the ordinances of the Koran and the Sunna.† If the dormant code of "menu," or the institutes of Hindoo law (I mean in its *penal* branch, for we retain the rest) had been revived and brought into actual operation, can any person, perfectly acquainted with that singular system of superstition, be persuaded of its eligibility, or reconciled to its sanguinary fiats? I enumerate hereunder ‡ a few of its dreadful punishments; and I sum up its character in the words of that amiable and eminent jurist, the late Sir William Jones, than whom none was better qualified to appreciate its merits. "This code," observes he, "has many beauties, which need not be pointed out, with many "blemishes, which cannot be justified or palliated. It is a system of despo- "tism and priestcraft; both, indeed, limited by law, but artfully conspiring "to give mutual support though with mutual checks. It is filled with strange "conceits in metaphysicks and natural philosophy, with idle superstition, and "with a scheme of theology most obscurely figurative, and consequently liable "to dangerous misconception. It abounds with minute and childish formali- "ties, with ceremonies generally absurd and often ridiculous. The punish- "ments are partial and fanciful, for some crimes *dreadfully cruel*, for others "reprehensibly slight; and the very morals, though rigid enough on the "whole, are in one or two instances (as in the use of *light oaths* and *pious* "*perjury)* unaccountably relaxed."—Preface to Translate of the Mânâvá Dherma Shastra.

On a full consideration, however, of the translations which had been made, and of the digests compiled by gentlemen of extensive erudition and experience, the British Government, seeing the many defects, blemishes, and absolute impracticability, as a systematic whole, of the several codes of ancient native jurisprudence, wisely determined on the best practicable expedient for remedying the evil, by preparing a code of legislative ordinances which should form a practicable digest and index of the whole, and without deviating unnecessarily from the ancient laws of the country, should yet be better adapted to the alterations, improvements, and existing circumstances of modern times.

Let a capable and unbiassed judge survey the system and the code which were accordingly instituted: let him observe and compare the close adherence of the latter, in all cases, to the original institutes; the characteristic maxims and peculiar usages of the Indian people; its marked and benign attention to the distinctions of cast, so far as is compatible with the forms of judicial proceeding; its humane, considerate, and wise provisions for the attainment of substantial justice from a mere theoretical survey: let him approach to a closer inspection of its actual operation and practical results; and, on this review, let him conscientiously declare whether he deem the system to be radically wrong.

* Wilks's Historical Sketches of the South of India.

† See Hamilton's preliminary discourses to the Hidaya.

‡ Punishable parts.—The belly, tongue, two hands, two feet, two eyes, organs of generation, nose, ears, property, and life.

Punishable modes, or rather modes of punishment.—Cutting the body to shreds with razors. Amputation of limbs, hands, feet, fingers, toes, tongue, nose, ears, genital parts; slitting and gashing the tongue, lips, penis, anus, &c. Impaling; drowning; running red-hot iron, boiling oil, lead, &c. into the mouth, ears, &c. Torture to death on a bed of iron; burning to death in various modes; being devoured to death by wild beasts, dogs, &c. Trampled to death or tossed by elephants. Ignominious torture with urine of an ass; ignominious and indelible branding, as the foot or paw of a dog, a headless corpse, or the female pudenda, &c. on the forehead, &c. &c. The detail is too horrid and disgusting.

wrong. To practical judges, the assertion would, I think, appear unreasonable; and even as a case in theory, I should not expect an unfavorable award. Most of the censures which have been cited, I know to have proceeded from the pen of a person *practically unacquainted* with the subject; from a gentleman who, though possessing a discerning and liberal mind, and professing a solemn sense of the moral obligations attaching to him for his opinions, appears to me to be manifestly biassed by some unaccountable prejudice against a wise and beneficial system.

I now proceed to advert to the other objections which have been stated. And, first, I shall admit that the new code of laws *is* complex and voluminous. This is an inevitable consequence of an institution so comprehensive. Are not all systems of laws so? They multiply much faster in the commencement than they will do in the sequel. It may also be admitted, that they are operate, formal, and expensive. The functions of the Judges and of the ministerial officers of the courts are doubtless laborious, and the formularies of proceeding are minute and multifarious; but the officers, respectively, receive liberal salaries, as well to stimulate their industry as to discourage corruption. As decisions and precedents multiply, practical difficulties will diminish: the modes and forms of proceeding will also be simplified and facilitated as the system matures. The learned jurists who propounded those forms, perhaps, in prescribing them foresaw and dreaded the danger of *summary* law. The expense of the courts is certainly immense. At Madras alone, I believe, it amounts to 8,38,079* pagodas, or £335,230 per annum, exclusive of the King's court;† and it is a noble proof of the zeal and interest exerted for the perfection of the system and the benefit of the people. It is much questioned, whether the mode which has been suggested‡ for diminishing the expense, would not prove equally illusory as the plan proposed for ameliorating the law and the tribunals. Of this plan notice shall be taken hereafter.

The assertion, that our Regulations are viewed with terror by the natives of India, is certainly contradicted, by my limited experience of their influence and effects; and, as I humbly conceive, by the intrinsic and extrinsic evidence of their benign spirit and operation, the aggregate quantum of business reported from each court may be some demonstration of the ready resort to its decisions. The bars, even of the King's courts, on whose adjudications there is a less regard to the codes and customs of the people and a greater admixture of English form and law, are yet crouded with native suitors, and regarded with awe and respect. The necessity of resorting to our, or to any courts of justice, is doubtless an alternative that will always be deprecated, being attended with trouble, expense, anxiety, delay, and loss. These are evils inseparable from all litigation. But when such necessity does occur, I know that the people of India look to the stern integrity of our Judges, the rigid impartiality of their decisions, and to the inflexible equity of our laws, with surprise, respect, and gratitude.

It is alleged, that *imprisonment* for *debt* is a grievance, and is contrary to the codes and customs of India. It is a provision, both as regards our tribunals in Britain, and those of the east, that has become obnoxious to legislative reprobation; but that it is without its sanction in the codes and customs of the east cannot, I apprehend, be correctly affirmed. I cite below the text of some of

* This is inclusive of judicial and police establishments, viz.

Sudder Adawlut	66,764
Circuit Courts	1,78,063
Zillah ditto	3,91,244
Police	2,02,008
Star pagodas	8,38,079
† Sup. King's court	95,934
Pagodas	9,34,013 or £373,605

‡ Historical Sketches of the South of India, Appendix.

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of their legislators on the subject.* These texts of their codes, with many others that might be cited, and the frequent recurrence of the natives to distress of person and property, duress, dherna, and even to the keeping the debtor to personal labour for the recovery of debt, are sufficient evidence, I presume, that this objection is invalid.

Exception has likewise been taken † against the indifference, if not the contempt, with which the distinctions of caste are regarded by our judicial code. Neither here, nor in several of the other cases, in which this code is inculpated by the writer in question, are any specific instances stated; so that it is not easy to come at the imputation in any tangible shape. But it will suffice to refer to sections 12 and 13 of the 37th of his Majesty George the Third for the conduct of the king's courts in this respect, recognized as that is, and fortified by other provisions in the Regulations for the provincial Adawluts (such as the mode of administering oaths, examining witnesses of rank and of sex, and to various parts of the new code), as a general answer to this allegation. ‡

It is, moreover, objected, that we have not adopted the mode of deciding causes by punchayet; and this mode is recommended as an admirable engine of practical decision, not only not recognized by our code, but even never before pointed out to public notice. In a subsequent part of these observations, in reply to the queries respecting the decision by punchayet, I shall enter more particularly into the notice of this subject. I deem it sufficient here to remark, that in the short code of regulations for the *Madras* Presidency, translated by me into the Persian and Telinga or Gentoo dialects, in the year 1793, that is twenty years ago (copies of which translations are lodged in the India-House), the mode of decision by punchayet was expressly prescribed, in certain minor cases, as a rule of proceeding in all the civil courts. It had, long previously, been the practice of the Bengal courts; and it is at this time, under the authority of the existing code, and in cases where the cause of action is of small amount, frequently resorted to as a rule of decision in all the civil courts.

I might dilate, at greater length, on what appears to me to be other unreasonable objections to the admirable system of judicature now in operation in the Indian provinces; but as it would be deemed tedious, I proceed to the next head, the *efficiency* of *the courts*.

Efficiency.

On this important point of inquiry it may not, perhaps, be enough to aver, that if the constitution of the system be good, it will also be efficient. The incentives to zealous and honourable action resulting from the desire of distinction, the hope of promotion, the engagement of liberal salaries, the quarterly visitation of the circuit to each of the zillah courts, the periodical reports of the two latter classes of tribunals to the Sudder Adawlut or supreme tribunal at the presidency, and of the latter to the local Government and the Honourable Court of Directors, the qualified latitude given to every Judge, to suggest alterations, amendments, or additions to the laws; these different gradations of inspection and control, together with the animating patronage of a liberal Government, appear happily calculated to excite to the utmost the zealous, efficient, and conscientious discharge of delegated trust and duty. I should also think, that the solicitude of the Honourable Committee on this interesting topic would be, in a great measure, relieved by a review of the annual abstract returns made to them by the court of Sudder Adawlut at the respective presidencies, recapitulating the amount of property and number of causes preferred for litigation in each of the subordinate courts, the amount of the property and number of causes in each decided or appealed, and the number of causes and amount of property in each remaining for adjudication. From these abstracts in the civil, and from similar abstracts in the criminal branch of judicature, supported by the judicial reports of the supreme or Sudder tribunals, and of

* "When a claimant establishes his right before the kazi, and demands of him the imprisonment of the debtor, the kazi must not precipitately comply, but must first order the debtor to render the right; after which, if he should attempt to delay, the kazi may imprison him." Hedayia, lib. xx, cap. 1; also lib. xxxv, cap. 3—See also the Mânâvá Dhermia Sastra, cap. VIII, sec. 47 and 48.

† Historical Sketches of the South of India.

‡ I cannot refer to particular Regulations, not having a copy of the code.

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of the Governments, a fair approximation might be made to a correct opinion of the efficiency of the courts. But even from these well-founded grounds, it might, perhaps, be too severe to form at once a rigid judgment. The whole system is yet, in a manner, in its infancy, but it is in a progressive state of advancement and amelioration. Another striking feature of the efficiency of the courts, as it must appear to the native inhabitants, is the several instances which have occurred of decisions obtained in the courts against the Government itself and its officers, in favour sometimes of the humblest Ryot or renter, when they have had the resolution, as is now frequently the case, to prefer a just complaint. Further, it may be no inconsiderable test of its efficiency, utility, and excellence, that during the thirteen years which have now elapsed since its institution, no accusation, that I have heard, of a dereliction of duty on the part of any of its European functionaries has been preferred, no flagrant breaches of duty on the part of any of the native officers have occurred; whilst, on the contrary, many of your servants have been distinguished by the applause of Government for an upright and honourable discharge of public duty, and for the light they have reflected, by their industry and talents, on the science of eastern legislation.

General effects.

Some writers, with pretensions to great political sagacity, have indulged their excursive fancies in a penetrating survey of the latent evils likely to ensue from the degree of liberty bestowed upon the people of India by the free spirit of our laws, and they have attempted to alarm the public by the apprehended danger of the reaction of that spirit on the controlling Government. It is, therefore, we may infer, that the adoption is urged of the antiquated and inapplicable penal ordinances of the Mânâvà Sastra, framed in ages comparatively of primeval barbarism, and calculated to continue the people in the trammels of superstition and error. With a singular inconsistency of reasoning, however, at the same time that the effects are deprecated of that portion of liberty and freedom which has been already suffered to imbue the new Indian code, the adoption of the entire criminal code of England is recommended in preference to the arbitrary law of Arabia now in use. I cannot but consider all these speculations as chimerical.

If imparting to the people of India a substantial property in the soil, of which before they scarcely possessed a shadow; if emancipating them from the thraldom of tyranny, and bestowing on them the benefit of a fixed standard of benignant and equitable laws, with the blessings of security of person, of property, of civil and religious liberty; if the extension of useful knowledge, the improvement of moral principles, and the amelioration of their condition, be likely to generate revolt, resistance, and ingratitude, then, indeed, there may be some cause for alarm. With far greater appearance of reason might the legislature of England apprehend danger from the liberty of the press, from the independence of the British Judges, from the free toleration of religion, &c. We all know, from experience, how little of danger is to be apprehended from the fruitful source of these blessings; and I am convinced that the more of liberty, of knowledge, and of moral and intellectual improvement we gradually and prudently communicate to the people of Asia, the sooner we shall ameliorate their lot, increase their gratitude, and consummate their destiny; a destiny which, on the authority of the unerring oracles of inspiration, is pronounced to be happy.

Query 2.

Do you conceive that any system of ancient Hindoo institution could now, in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Reply.

Perhaps I do not comprehend this question exactly in the manner it may have been intended by the Honourable Committee, but I shall reply to it according to its ostensible import.

The system of jurisprudence introduced into India by the British Government having reference to the two grand classes of the people of the east, viz. Hindoos and Moslems, does, with a wise impartiality, profess to adopt, and does practically administer to each class of the people, its own *entire* code of law, in so far as we found the same in use among the people themselves: I mean with the exception of the Hindoo criminal

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nal code as regards the Hindoos; and in respect of Europeans, with some modifications of English institution. I am not, indeed, aware that *there is* any other general system of ancient Hindoo institution than that now recognized and in force. None other, therefore, could be substituted: and, inasmuch as a part is not equal to a whole, any part or further abridgement of their system would be felt as a grievance by the Hindoos, as cancelling the rest of their code; and as relates to the Moslems and Christians, would be still less congenial with their opposite creeds. No such system, therefore, could be advantageously substituted for the system introduced by the British Government, which is a composite system, admirably providing for the various institutes of the diversified classes of people among whom it is dispensed.

I am not aware that it is possible to devise any essential change that could be advantageously adopted;* it is fortunate, therefore, that the established constitution is founded on so judicious and solid a basis. But even if some general change could be thought of, that should be supposed to embrace an amelioration of the condition of all parties, I would beg most strenuously to dissuade the practical experiment of such an attempt. Perfection in the science of legislation is equally unattainable as it is in all other branches of human knowledge. Sufficient has been done, as the matter now rests, to render all classes of the people as nearly satisfied and happy as they probably ever can be, with reference to the dispensation of justice. Any essential change or fluctuation in the existing judicial constitution, after all the labour, vigilance, and care with which it has been nurtured, would occasion such a paralysis in the public opinion and confidence, as no subsequent measures could ever remedy. Fluctuation has been the character and the bane of most of our institutions hitherto. A change in our system of *law* would lead to the apprehension of a change in our system of *revenue*, after it has been pronounced to be permanent: this might induce a suspicion of our consistency, and perhaps shake the basis of our general policy. A system like this requires almost a cycle to mature: it has hitherto prospered and will assuredly withstand the canker of calumny. Let this, at least, be lasting!

Queries 3 and 13.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions at Madras, particularly the system of village courts and decisions by punchayets?

Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit, and to submit it to the decision of the punchayet? or has the punchayet, at any time or on any occasion, been recognized by the courts of Adawlut or the English government?

Reply.

In the provinces subordinate to the British Government under the Madras Presidency, the judicial rules of ancient Hindoo institution, from causes stated above, have fallen much into desuetude. Under the English rule disputes were formerly tried by the Chiefs and Councils, or under authority delegated by them until the period of their abolition; and subsequently by the Collectors, political and commercial Residents, and their assistants, until the institution of the existing plan of jurisprudence. It were difficult to pronounce whether the condition of the people was most to be commiserated under the arbitrary and venal sway of the existing authority, whencesoever derived, in the periods of anarchy anterior to the establishment of the English Government, or subsequently to the latter era, under the miserable shadow of summary, capricious, and uncertain justice, as formerly administered by the Provincial Councils and by the Collectors. I shall recite, generally, the forms of proceeding prescribed for the judicial conduct of the latter, by way of contrasting them with the system now in force, and thence inferring how highly the native people must appreciate the blessings now bestowed on them.

"† Petitions being regularly signed and dated, shall be first presented to the "Collector in whose district the subject of complaint may occur, who shall "either

* See, on this point, an opinion in the Preliminary Dissertation in the Translate of the Hedâya, page 86.

† Extract from the Regulations for the guidance of Collectors.

" either afford redress to the parties aggrieved, or if the claim or fact be " deemed inadmissible, shall subscribe on the petition the causes of dismission " and return it to the petitioner, retaining a copy for record. The petitioner, " if he should think proper, may afterwards lay the petition before the Board " of Revenue, who will thus be enabled to decide thereon, and either finally to " reject the prayer of the petition, or to confirm such part as they may deem " admissible.

" If any petitioner should complain to the Board of the Collector's having " refused or unnecessarily delayed to give him a hearing, and it shall be found " that the petitioner is correct, such Collector shall incur their severe dis- " pleasure, however trifling the cause. But if it should appear that the pe- " titioner has been guilty of misrepresentation, and that his petition had not " been previously presented to the Collector, the petitioner shall either receive " an adequate punishment for such offence from the Board, or be returned to " the Collector for that purpose, to be made an example of on the spot.

" Collectors shall not refer for redress any complaints preferred by Ryots " against a renter or other person employed under him to such renter or person " complained against, but shall hear, examine, and decide them himself, and " if well founded, shall compel the party committing the injury to afford " redress. Should the complaint be litigious and ill founded, he should punish " such complainant according to his or her sex, rank, and circumstances, and " to the degree of the injury to the party complained against, by compelling " the complainant to make suitable reparation, or by confinement of his " person.

" The Collector is authorized to refer trifling complaints between Ryots, or " of Ryots against inferior officers of revenue, to the renter or head officers " stationed on the part of the renter in the district; but he shall, invariably, " require and exact from the person to whom such reference is made, a regular " return to the reference, under his signature and that of one or more of the " principal officers of the cutchery of the pergunnah: the return to be re- " corded on his proceedings."

The above were the forms of law under the tribunals of the Collectors. The spirit and rules of that law were the reason and judgment of the Collectors themselves; and laconic as is the code, I fear it was not always adhered to in spirit, or observed in letter.

In disputes concerning questions of caste, customs, and ceremonies, the matter was sometimes referred to the decision of the heads of caste or village councils; and in cases of contested property, &c. of small amount, and where the parties were mutually willing, the cause was occasionally submitted to arbitration or *punchayet*.

Decisions by punchayet.

I have explained above, that the decision by punchayet, as it is termed by the Hindoos, is the same as what we term decision by arbitration or umpirage; though, from an acquaintance,. perhaps, with the Hindoo languages, it does not seem to be generally understood as such. The respectable writer of the Historical Sketches appears to consider it a mode of trial entirely novel or unknown to our English Government, and denominates it the *Indian trial by jury*, from some fancied resemblance, perhaps, to our celebrated trial by jury, to which, however, the punchayet has not the least analogy. The Honourable Committee also seem to entertain doubts, whether the Courts of Adawlut have ever resorted to or recognized the decision by punchayet.

I stated before, in my remarks on the " fitness of the existing juridical " polity in India," that the decision by punchayet had been prescribed as a form of official proceeding in the Madras territories, upwards of twenty years ago, had been long previously adopted in Bengal, and is now resorted to as a mode of decision, if the parties do not oppose, in a great variety of minor unappealable cases, in every court subordinate to that presidency. Unfortunately, I do not possess a copy of the Regulations, either for the Madras or Bengal courts, and cannot consequently refer to the particular regulation which prescribes this mode of proceeding. The term punchayet will not be mentioned in the original English text: in the Hindoo versions, telinga, and tamul, it will,

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will, or should appear, as the technical synonime for the terms *arbitration* or *umpirage*. I have, however, in my possession, some notes relating to the Gentoo version I made, in 1793, of the short code *then* prepared, from which I translate the following rules for the decision by punchayet.

* "In suits where the course of action shall not exceed ...., occurring "in any of the courts, it shall be competent to the judge to refer such suits for "the consideration and award of an arbitrator † or umpire. The Judge, pre-"viously to referring the case, shall, on the court day preceding, desire the "parties or their Vakeels, by mutual consent, to select and appoint from "among their friends or acquaintances some person willing to undertake the "arbitration of the suits. Such person, thus reciprocally chosen and consent-"ing, shall become the arbitrator of the suit. Should the parties not mutually "agree to the appointment of an arbitrator, or should the arbitrator selected "by them not consent to undertake the adjudication of the cause, then it shall "be competent to the Judge, of his own authority, to appoint a person to ar-"bitrate the suit. After the arbitrator shall, in this manner, have been chosen "and appointed, the Judge shall then transmit to him a copy of the petition "of complaint, together with all the other documents of the parties relating to "the suit, certified with his signature. The Judge shall then summon to his "presence the parties and their witnesses, and having caused to be adminis-"tered to them the prescribed oaths in the presence of the arbitrator, he shall "give authority to proceed with the suit agreeably to the general forms of "proceeding prescribed in the Regulations. Should any of the parties fail to "attend, or attending, to give evidence, or having given evidence, to subscribe "it, or to conform with the orders of the arbitrator, or should they molest, op-"pose, or contemn the arbitrator in his official proceedings, then the arbitrator "may proceed against the parties so offending, whether by damages, fine, or "punishment, as is prescribed in the Regulations for the conduct of the Judges "in similar cases. The arbitrator shall, however, refer each case of this na-"ture, with his opinion and the reasons of it, for the orders of the Judge. The "Judge shall signify such orders, approving or otherwise superscribing it with "his name. In such cases, the same power and authority is vested in arbitra-"tors as by the Regulations is vested in Judges. The arbitrator shall deliver "in his award within a limited time; which, if not sufficiently long for the "due consideration of the case, may afterwards be prolonged by the Judge. "When the arbitrator shall have determined on his award, he shall write it out "with an abstract of the case, and transmit it, signed and sealed, to the Judge. "The Judge having perused the award, shall correct and amend it, if neces-"sary; otherwise shall approve and subscribe it with his name. The award, "thus corrected or thus approved, shall be registered in the archives of the "jurisdiction, as an award binding and effective on the parties. The Judge "shall accordingly order it to be carried into effect. The arbitrator shall "transmit to the Register of the court all the depositions and official docu-"ments connected with the case. The Register, having endorsed on them "the names of the parties and the dates of their delivery, shall deposit them "with the records. The orders, in conformity with the award, shall be en-"forced as the order on other decrees."

This is the general formula for the proceedings of a court of punchayet, which, I believe, may consist of one arbitrator or umpire, or of two arbitrators, with the casting voice of an umpire. It has a peculiar mode of examining witnesses, consisting in a minuter attention to circumstantial evidence; but, in other respects, does not appear to differ from ordinary tribunals. And here I may be permitted to express my surprise at the assumed discovery by the author of the Historical Sketches of this form of Indian adjudication, and its alleged resemblance to the English trial by jury. Do we see here any similitude to that admirable institution, according to which no British subject can be affected in his property, liberty, or person, but by the unanimous consent of *twelve of his neighbours and equals?* Do we see the cautious returns made of a fair and impartial pannel, whose names are drawn by lot, till a certain number be complete,

* From the code of Regulations for the courts of Adawlut at the Madras presidency, prepared in the year 1793.

† Sometimes one or more.

plete, who are challenged by the parties, and if necessary made up by others, till there be none objectionable; who hear the counsel on each side, the examination of the witnesses, the summing up of the Judge, and then, retiring from the bar, consider of their verdict until they be entirely agreed, and return to deliver it in open court? We cannot discern a vestige of resemblance. The punchayet is a temporary Hindoo tribunal, erected on the instant order of the Rajah, to try, by a summary process, in the simple form above prescribed, the suit brought before it, for the most part, with the consent of the parties. It is a mode of trial resorted to, I believe, in *civil* cases only; but in some of the countries of the east, and at the will of a despot, it might be employed to imprison, dispatch, or exile any man obnoxious to the royal resentment. But by our jury law, no man can be called to answer to the king for any capital crime, unless on the preliminary accusation of twelve or more of his fellow subjects, the grand jury; and the truth of every such accusation must afterwards be confirmed by the unanimous suffrage of twelve of his equals or neighbours, indifferently chosen, and above all suspicion. Here is a twofold barrier, that of a presentment and of a jury, between the liberties and lives of the people and the power and prerogative of the ruler. I have extended the contrast here drawn, with the view of considering whether it were possible to introduce in India the mode of trial by juries of natives, or some approximation to it, comprizing some of its advantages. But when I reflect on the lamentable relaxation of moral obligation, to the apathy of conscience, the defect of principle, the proneness to perjury and falsehood, which characterize so large a proportion of this people; in short, to the absence of that rectitude of heart and mind, which can be inspired only by the true religion, I see little cause to hope that our efforts to remedy those evils will easily or readily prevail. But even if those inveterate vices could be eradicated, I still apprehend the most serious obstacles from the singular form of the social and political constitution of the people; for the multifarious ramifications of caste and sect would present innumerable causes of challenge or objection to jurors, who are required by law to be all unobjectionable and disinterested peers or equals of the parties litigant; and from the difficulty there would be of procuring conscientious and unbiassed verdicts, from a people composed, more than any other on earth perhaps, of a general aggregate of jarring elements, of smaller associations imbued with so many diversified superstitions, jealousies, prejudices, and partialities.

Query 4.

If this system, introduced by the British Government, is, in your opinion, to be preferred, do you conceive it to be susceptible of any melioration that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

Reply.

I profess myself to be a strenuous advocate for upholding the existing system of judicial administration in the Indian territories, from a firm conviction of its excellent adaptation to the opinions, institutions, and manners of the people, of its decided preference to any new modification of its Hindoo and Mahomedan elements, and of the imminent danger, by any essential change with hopes of uncertain advantage, of sacrificing the substantial benefits already obtained, and of disturbing the confidence with which the natives now repose on the benignant basis of a system already in a manner familiar to them, estimable in proportion to the benefits it has bestowed and the misery which it has superceded.

With regard to any practicable melioration of the present judicial arrangements, it is my humble opinion that these should be suffered to spring spontaneously out of the system, in the same manner as most of latter laws have emanated from it. In the same manner as most of the standing orders and rules of the other branches of the Company's service have "grown with "its growth, and strengthened with its strength," they should be the fruit of practical experience, and cannot, with propriety, be forced. It is, doubtless, desirable to accelerate the decisions, to facilitate the access, to simplify the proceedings, and to curtail the expenses of the courts, so far as these objects can be attained *without a sacrifice of more substantial benefits.*

We

We might, perhaps, satisfy the clamour against dilatory decisions by imitating the prefunctory process of the Mahomedan courts; but then we might resemble them in their errors, and endanger the essential objects of justice. Summary proceedings would ensue, and the courts would degenerate into engines of formality and oppression.

To dispense law, on fixed principles, among so many millions of people, written forms and precise rules are indispensable. That these should be so few and so simple where the population is so immense and so diversified, and the jurisdiction so extensive, should rather excite surprise than censure. It has been remarked by enlightened jurists, that the formalities of judicial proceedings increase in proportion to the estimated value of the honour, liberty, property, and life of the people; because more time and circumspection are requisite, where the suitors have valuable and permanent rights to lose, than where their property is trivial and precarious. One principal cause of the delay of the courts is the great accumulation of suits; and this, whilst it tends to prove the beneficial results of our laws to the people, serves to refute the malignant assertion, that the people look at those laws with disgust. Every expedient that could be prudentially devised to obviate the inconveniencies complained of has been wisely adopted by the local Governments. The physical difficulty of extensive territory and dense population must continue to oppose the ready access of the natives to our courts, so long as these courts cannot be multiplied; but additional Judges have been appointed, subordinate tribunals augmented, the period of appeals has been limited, fees on the institution of suits imposed, and perhaps some of those measures have been attended with success. But while attempting a remedy, there is also the danger of augmenting the evil. Litigation may be promoted, in the ratio in which it is facilitated; the decision of causes may be accelerated, the forms of proceeding simplified, but the utility and efficiency of them may be impaired. Expense, trouble, and delay, have been considered by statesmen as a necessary price which subjects must pay for their liberty. Further than this, I must confess my inability to suggest any improvements. Indeed, without the regulations to refer to, I cannot recollect any other defects.

I know there are some advocates for reverting to the former method of uniting the fiscal and judicial functions in the person of the Collector, as being a system more eligible than the present, in point of diminished expense, and more efficient, simple, and prompt, in point of proceeding and decision. But this anomaly from every species of judicious economy, by which the functions of two officers, essentially distinct, are blended and confounded, each conniving at, instead of restraining the observations of the other, and by attempting to execute both characters performing neither properly: this is such a self-evident solecism in state policy, that any animadversions of mine are unnecessary in reprobating it.*

I consider, also, the theories of the admirers of the Hindoo code, further than we have already adopted that code, to be inexpedient or impracticable, and in some points absurd.

Query 5.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Reply.

Among the numerous advantages of the British judicial system in India, I reckon the more prominent to be: 1st., the admirable adaption of its legal code to the diversified objects, laws, and usages incident to its operation; the active principle inherent in itself of amelioration; the simultaneous impulse of judging and acting, communicated by it to all the different tribunals; and, by the successive gradations of reference, the comparative certainty afforded of preventing contradictory decisions and eliciting substantial justice. 2dly. The benignant and paternal regard and toleration which it exhibits towards the harmless

* I have, indeed, known a few remarkable instances of the combination in one individual of that temper, talent, energy, sagacity, and zeal, which enabled them to go through this double charge with utility and effect. But because two or three acquitted themselves thus, to hope that *many* or *all* would do the same; to trust to this as a system, would be contrary to experience, and as wild as to look for a systematic series of wonders.

harmless institutions and inoffensive superstitions and prejudices of the people, combined with the wise and cautious, but firm and temperate attempts to meliorate and reform unreasonable, pernicious, and inexorable laws and usages. 3dly. The uprightness, integrity, and impartiality of the Judges; the publicity, regularity, and precision of their proceedings; the purity, solidity, and propriety of their judgments and decrees; the checks and guards established against bribery, rapacity, and corruption; the security afforded for the probity, assiduity, and honour of them all, and expecially the native functionaries. 4thly. The ægis, I may say the panoply, of protection afforded by it to the lives, property, and liberty of a population, who, for preceding ages, having been exposed to all the evils and perils of tyranny and misrule, must esteem this boon as an unappreciable blessing. 5thly and lastly, I esteem as no mean advantage, the exclusion and independence which have been established between the judicial legislation and executive branches of the state, and the leisure consequently afforded to the local Government, to attend with greater effect to the more appropriate functions of their administration.

The chief disadvantages of the system I deem to be: 1st, the complex nature of the judicial code; the inevitable result of the various people's laws, languages, and usages, to which it has reference. This, in the inchoate state of the judicial economy, renders the application of it difficult to each, and the intelligence of it difficult to all. 2dly. The inaptitude and inexperience of the Judges, in the earlier stages of their judicial career, from the want of a professional education, and the arduous labour of acquiring the knowledge of foreign languages and laws. These disadvantages, however, are in a progressive train of diminution, by the advance of the system to maturity, by the course of preliminary education instituted by the Honourable Company at the colleges of Hertford and Calcutta, and by the subsequent rise of the functionaries in the subordinate gradations of the judicial department. 3dly. The chance of the unfettered patronage of the Government being misapplied, in some instances, in the highly important duty of selecting Judges with the requisite qualifications for the responsible trust of dispensing justice. In this delicate, difficult, and highly responsible prerogative, motives of interest, favour, or affection, considerations of seniority, commiseration, or any other than *absolute fitness*, should be excluded and interdicted, by the most solemn and imperative injunctions. 4thly. The delay and expense of the legal proceedings have been already adverted to, as inconveniencies rather than evils, necessarily resulting from the extent of territory and amount of population, and as being likely to augment, rather than to diminish, in the ratio that the system flourishes and the population increases; likewise as being a requisite counterpoise in the judicial balance, to prevent the preponderance of the litigious spirit of the people. The delay, however, is believed to be not more, perhaps much less, in India than in the European tribunals. These are defects that never can be entirely remedied; but certainly all due regard should be paid to prevent unnecessary procrastination and exaction. 5thly. The dangerous influence of native commissioners as arbiters of the petty courts. The commissioners being generally Zemindars, renters, or men of consequence in the district, stand in some relation to all the Ryots of the vicinity, and being generally too much imbrued with those vices which vitiate the purity of justice, can scarcely ever be depended on for disinterested and unbiassed decisions. From the extent of territory, however, the aggregation of causes, the expense and paucity of zillah establishments, the extensive employment of these officers is unnecessary; but the most cautious control and supervision of the European Judge and Register are requisite.

It is to tribunals similar to these last, however, under European superintendance, that some reformers would entrust the whole economy of justice, under the auspices of an antediluvian code, in preference to the existing system. Of the code enough has been already said: of the proposed Judges I shall treat hereafter, in the proper place. Of the project itself it may be said, that it would be more expensive than the present to render it safely operative, would place the attributes of justice and the rights of the people in the hands of some of those from whose oppression and injustice it is the object of the system to guard them, and, in my judgment, would utterly fail in the accomplishment of its object.

Answers to Court's Queries.

A. Falconar, Esq.

Query 6.

If you are of opinion that this system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment (particularly in native servants and their allowances) for those courts?

Reply.

I apprehend that no diminution of expense can be judiciously effected by reducing the *number* of courts as at present constituted, or the *native* establishments, which seem to be barely commensurate to the area of the Zillahs and the amount of the population. In the salaries of the Judges, perhaps, some saving might be made, grounded as much on principles of expediency as economy. I shall take the liberty to quote, on this subject, some paragraphs of a letter which, in concert with my colleague at the Board of Revenue, Mr. W. Petrie, and at the desire of Lord William Bentinck, I prepared to be transmitted to his Lordship in May 1807. It was on the subject of reductions and reforms.

" *Though not properly within the range of inquiry prescribed by your " Lordship, I am led, by the analogy of the subject, to advert to the enor- " mous disproportion between the standard of allowances allotted to the officers " of the Revenue and Judicial departments; a disproportion which, in my " mind, is not warranted by principles of policy, economy, or justice. The " situation of a Judge of the Sudder Adawlut is considered (but I think on " erroneous grounds) to be an office of greater importance than a member of " the Board of Revenue, I am convinced that the financial duties of a member " of that Board are more laborious than the forensic duties of the Sudder " court, and I presume they are equally important. Even the juridical func- " tions of the Board of Revenue, resulting from their authority as a 'Court of " Wards', and from a multitude of legal cases connected with the subdivision " and sale of lands, recovery of arrears, &c. are very extensive and per- " plexing.

" Wherefore, then, should there be such a disparity in the scale of their " allowances? Why should all the officers in the Judicial line receive higher " allowances than those of the Revenue department? The latter department " is equally important, it is more laborious, it is exposed to more temptation, " and liable to greater personal responsibility. If it be worse paid, must not " the consequence be, that the former will be preferred, the latter fall into dis- " repute, and the prosperity of the revenues be consequently endangered?

" If what I have remarked be admitted, it behoves us, from maxims of good " Government as well as from motives of economy, to equalize the scale of " allowances. Upon this subject I recite the sentiments of an Officer whose " opinions and experience are entitled to great attention.†

" ' In a general plan of economy some retrenchments seem to be required " ' in the Judicial department. The salaries there are beyond all measure too " ' high, whether we regard the services to be performed or the talents re- " ' quired for them. In Britain, the men who hold the office of Judges are " ' usually indebted for their promotion to superior learning, eloquence, and " ' abilities, and to a long perseverance in the laborious exercise of their pro- " ' fession. In India, nothing of all this is expected: it is enough if the " ' individual has resided a certain number of years in the country, and is a " ' senior, or even a junior merchant. All the benefit that the most indefa- " ' tigable zillah or provincial Judge can render to the country, cannot be " ' placed in competition with that which is derived from the labours of a Col- " ' lector in an *unsettled district*. The Judge has little to say to the great body " ' of the people, he can only settle the causes of the few litigants who come " ' before him; but the Collector, by his settlement of the rent, may be said " ' to distribute justice or injustice to the whole of the inhabitants, and to " ' determine whether they are to be easy and contented, or distressed and tur- " ' bulent. If the assessment is too low, he loses the dues of Government; if " ' it is moderate and equal, the country flourishes; if it is too high, the " ' people are poor and disaffected, and the courts will be filled with suits " ' about

* Extract letter from William Petrie, Esq. to Lord William Bentinck, Governor of Madras, 7th May 1817.

† Lieut. Col. Thomas Munro, Collector of the Ceded Districts.

" ' about the public revenue. The amount of the assessment, it is true, is
" ' ultimately fixed by the Board of Revenue and Government, but their judg-
" ' ments must, in a great measure, be governed by the reports of the Col-
" ' lectors. A salary of 6,500, or at most 7,000 pagodas, is as much as ought
" ' to be allowed to a zillah Judge; and 9,000, or at most 10,000 pagodas,
" ' would be an ample allowance for a senior provincial Judge. If the duties
" ' of a Collector are as important as those of a provincial Judge, both with
" ' regard to the public and to individuals, there can be little reason for mak-
" ' ing the salary of the one much higher than that of the other, &c. &c.'—
" (Letter of Colonel Thomas Munro).

" Founded on the preceding reasoning, I beg permission to suggest the fol-
" lowing amended scale for the allowances of the officers of the Judicial
" department.

" *Sudder Adawlut.*

	Proposed Amount. Pagodas.	Present Amount. Pagodas.	Savings. Pagodas.
" First Judge.........	12,000	15,000	
" Second ditto	11,000	14,000	
" Third ditto.........	11,000	14,000	
" Register	5,000	7,500	
" Assistant............	2,000	2,400	
	41,000	52,900	11,900

" *Provincial Adawlut.*

" First Judge.........	10,000	12,000	
" Second ditto	9,000	11,000	
" Third ditto.........	9,000	10,000	
" Register............	2,500	3,600	
	30,500	36,600	6,100 × 4 = 24,400

" *Zillah Courts.*

" Judges	6,500	8,000	1,500 + 25 = 37,500
	Difference less.........Pagodas		73,800

" Hence a saving of Star Pagodas 73,800 per annum appears to me to be
" immediately practicable in the Judicial department, which, together with
" the reduction I have suggested in the Revenue department, &c. &c.

" It occurs to me that some proportion of our Judicial expense might be
" defrayed, by reviving, in a Regulation to be enacted for the purpose, the
" ancient practice of the Mahomedan and Hindoo tribunals, of levying a cent-
" age or commission on the amount of the property litigated in our courts,"
&c. &c. &c.—(Mr. Petrie's letter, 7th May 1807).

Many of the suggestions of my revised plan, contained in the letter whence the above passages are extracted, had been acted upon; but my suggestions respecting the Judicial department, though the more practicable of the two, had not, at the time I quitted India, been adopted.

Query 7.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Reply.

The Asiatic people, Hindoo and Mussulman, retain a deep commixture of that moral malady, which has so remarkably infected our common nature, since its declension from the state of innocence and perfection in which it originally proceeded from the hands of the Creator. Elsewhere, the mind is sometimes relieved from the gloomy survey, by instances of humanity recovering from the wreck and rising superior to the ruin; but here the spell is still unbroken! We look in vain for the devotion of the heart, the sense of an intuitive Deity; those virtues and charities which constitute the golden rule of Christian morality, and which

which the only true religion can infuse. On the contrary, amid a natural gentleness and mildness of temperament, which might be considered a mould for every amiable virtue, and cannot surely be unsusceptible of amendment, we are also struck with a variety of characteristic vices, which the uncontrolled empire of the passions necessarily generate,—which a deluded system of ethics and theology tend to nurture and cherish,—and a long succession of despotism and misrule have contributed to heighten and confirm.

It is surely no unreasonable hope, that under a better economy of Government, under the benign, generous, and enlightened policy that has of *late* influenced our administration in the East, a gradual improvement may ensue. The first impressions may most likely be made by the noble munificence that has bestowed on them a permanent property in the soil, and the provident wisdom which has supplied them with laws securing to them that property.

In the administration of those laws, they must be seriously impressed with the genuine spirit of justice and benevolence which pervades them, and with the exemplary integrity and disinterestedness of the Judges who dispense them. They cannot fail to contrast with all their former miseries and wretchedness (and contrasting, to feel and appreciate) the blessings which this system involves; and whilst it excites their gratitude, it is scarcely possible that it should not gradually amend their morals and opinions.

Those phantasms of danger, which some gloomy theorists have conjured up, as if to obscure the radiant dawn of this day-spring of comfort and freedom which has beamed on those benighted regions, the fears that the liberty which our laws have bestowed may ultimately be fatal to our dominions, appear to me to be groundless. This, surely, is not a natural consequence of so benign a policy. We frequently witness the reaction of tyranny on the tyrant, but good is rarely the parent of evil. Beneficent laws, far from being subversive, are productive of liberty; and it has been justly observed, that where there is no liberty there is no law. The liberty which we have bestowed on the Indians portends no peril. That it should do so, is neither consistent with the nature of things, the peculiar genius, or the political constitution of the people. There is a sort of " balance of power" among them that might be made use of to counteract any such danger, if it did exist, but it is all chimera.

From the humane spirit of our laws, and the pure standard of our judicial proceedings, the eye of the statesman may anticipate the germ of a conscientious feeling, the spring of a principle of rectitude and fair dealing among the native people. He may fairly cherish the hope, that the confidence and security which will have been diffused will beget an active principle of improvement, an excited industry, increased resources, and augmented population.

The eye of the philosopher and the Christian philanthropist, perhaps, fixing his telescope on this *standard*, but magnifying its powers by other aids, may trace to a far higher degree of melioration the future condition of this interesting people, whose happier destinies we are not permitted to doubt, and whose moral and intellectual improvement it is the sacred duty of their rulers seriously to study, and by every prudent and practicable means to promote.

Query 8.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Reply.

Virtue is commonly said to be its own reward, vice consequently should be its own punishment. We may observe the verifications of this axiom in the character of the natives of India, who feeling their own corruption, suspect their fellows of similar depravity and fear the effects of it. It was long doubted whether British virtue were incorruptible, and unfortunately there have not been wanting instances to justify the doubt. There can now, however, be little, if any doubt of their superior reliance on the general uprightness of *European* Judges.

Query 9.

. Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administra-

Reply.

The natives of India are probably equal to any class of men for diligence, temper, patience, ingenuity, acumen, and

tion of justice, and how far; or, more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

and all those qualifications which peculiarly fit them for *ministerial* employment in the Adawluts: but I apprehend that, in general, they may be pronounced to be greatly deficient in integrity, veracity, and disinterestedness, which must be considered the cardinal qualities of the judicial character. They can rarely, if ever, I fear, be exclusively trusted with the administration of justice; and, in any part of the judicial system allotted to their execution, they should be superintended by Europeans. I might fortify this judgment of them, which may appear to be severe, with the concurrent opinions of many respectable men. I deem the following testimony of the mild, candid, erudite, and eminently accomplished Sir William Jones, to be irrefragable on the subject.

"I have many reasons to believe, and none to doubt, that affidavits of every "imaginable fact may as easily be procured in the streets and *markets* of Cal"cutta, especially from the natives, as any other article of traffic."—(Charge of Sir William Jones to the grand jury of Calcutta, 10th June 1785.)

"If we give judgment only from the opinions of the native lawyers and "scholars, we can never be sure we have not been deceived by them. It "would be absurd and unjust to pass an indiscriminate censure on a consider"able body of men; but my experience justifies me in declaring, that I could "not, with an easy conscience, concur in a decision merely on the written "opinion of native lawyers, in any cause in which they could have the re"motest interest in misleading the court."—(Letter of Sir William Jones to the Supreme Government of Fort William (Bengal), dated the 19th March 1788.)

Query 10.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Reply.

I estimate the average scale of population within the area of one zillah to be from 250,000 to 300,000 of souls. I subjoin a memorandum, not quite correct perhaps, of the reputed population of most of the districts subject to the territory of Madras.

Names.	Population.	Names.	Population.
Jaggur	271,372	Ceded Districts	1,228,113
Nellore	250,000	Southern division Arcot	587,174
Guntoor	135,877	Northern ditto	232,555
Western zemindary	200,000	Trichinopoly	507,552
1st division Masulipatam	229,794	Tanjore	664,148
2d ditto ditto	256,399	Salem	358,249
3d ditto ditto	343,911	Southern zemindary	404,458
1st ditto Vizagapatam	120,420	Tinnevelly	
2d ditto ditto	*450,000	Malabar	
3d ditto ditto	128,052	Ramnad, &c. &c. &c.	

These estimates were made about the year 1803 and 1804: the population is supposed to have considerably increased since. Several provinces are wanting, and the census in some supposed to be defective.

Query 11.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient? or do you think it would be practicable and expedient to resort to any of the modes practised by the native Governments for maintaining the police and order of the country?

Reply.

An examination of the various plans which, in the ancient and modern periods of Indian economy, have been devised for the regulation of the public police, or domestic order and arrangement of the commonweal, would lead to too expanded a disquisition; I shall therefore limit myself to some general observations on the plans of former and present times, in the *south* of India.

[2 R] The

* Too high.

The kaveli system, or the Hindoo police, viewed as a branch of the ancient constitution of their Government, was doubtless, in point of utility and efficiency, exceedingly well adapted to the ends of its institution, in a form of Government such as that of the Hindoo Rajahs. Each village constituted a petty commonwealth, having a complete system of municipal policy, in which the regal, ecclesiastical, and general interests were represented and respectively provided for. It is unnecessary to enter farther into the analysis than as relates to the subject of police. In each village, town, city, and district, were stationed officers of police, with gradations of rank and numbers of retainers commensurate with the extent of the respective ranges of territory, from that of the humblest Kavilzar to that of the most powerful Poligar. These Kavilzars having a concurrent jurisdiction, were charged with the internal security and tranquillity of the country. They were armed and paid by means of certain contributions from every inhabitant, in addition to an assessment amounting, perhaps, to about one and a quarter per cent. on the annual gross produce of the country, the protection of which also was thus made their duty and their interest. In addition to the charge of the interior peace and security, it was incumbent on the Poligars, or superior orders of the Kâveli class, in common with the rest of the Hindoo feudal aristocracy, to join the army of the Rajah in times of *external* danger, with their respective contingents of armed Peons, which they were not merely permitted but obliged to maintain, as well for the public defence as for purposes of personal state. Being thus entrusted with the safety of the public property, armed with the means and paid for the purpose of protecting it, they were held responsible for all losses by theft, robbery, or depredation, for the detection and apprehension of all public offenders of this description, and for the extinction of all offences committed by them. The formidable power thus delegated to these Kavilzars, organized by an able minister and controlled by a despotic government, was competent to every purpose of vigorous and energetic police. But it was counterbalanced by a concomitant evil. Under any relaxation of the controlling authority, the Poligars and higher officers of it attained and usurped a power which was employed in maintaining personal quarrels. They extorted and amassed wealth, which was dissipated in a jealous rivalry of magnificent pageantry. The weapons which were intended for the enemies only of the state, were turned against the state itself and against each other, and were used for plans of personal aggrandizement, mutual revenge, or public plunder. It was sometimes with difficulty that the regular or standing army of the state could restrain the insolence, or subdue the insubordination of these intestine rebels and robbers.

In the southern provinces of the Indian peninsula, we experienced, in a remarkable degree, for a series of years, as the Honourable Committee must recollect, all the evils of this mode of administering the police of the country. True, it was a disorganized state of the Hindoo police; but however well calculated it may be, as an engine of domestic order and security, in the empire of uncontrolled dominion, it never can amalgamate with the regulated elements of a civilized government.

It was wisely determined, therefore, to disarm these powerful predatories; to reduce their power, not only by diminishing their superfluous military strength but likewise their exuberant financial resources. The plan was accordingly effected, but not without great address and difficulty. Their military services were commuted for an increased pecuniary tribute; and having been at the same time exonerated from their civil or police duties, it was hoped that they would, in consequence, become better members of society and more industrious subjects of the state.

It was on this occasion determined, that Government should substitute a new plan of police, charging itself with the interior and exterior security and protection of the country. Change of system is always attended with danger: from a bad to a better plan, even, it is not without inconvenience. The new system of police was established, superintended as it is by Magistrates, having Darogahs (constables) under them, with subordinate officers and bodies of peons. It is maintained at an annual expense of about two lacks of pagodas, but had not, when I left India, attained a sufficient degree of efficiency. In my mind, however, there is no doubt that it can easily be rendered useful, manageable,

manageable, and efficacious. Colonel Walker and Major Watson in Malabar, and Colonel Thomas Munro in the Ceded Districts, by employing the *police* Peons, aided in some emergencies by others raised for the occasion, and sometimes by the military, maintained order and good government in times of unusual tumult and turbulence. The Magistrates, in their other avocations, having much to do, may perhaps require the aid of *European superintendants* under them. The present plan is simple, practicable, analogous to our general economy, and susceptible of any improvement which experience may dictate, whilst it is free from the inherent dangers and systematic incongruity of the Hindoo kâvéli plan. The fault of the latter was a power and energy tending to independence from rebellion; that of the other, a weakness and lenity approaching to inefficiency. It is easy to invigorate one, but we have experienced how arduous a task it was to restrain or reform the other. I may add, that a large portion of the territory subject to Madras having been settled on the permanent plan, and the assets consequently absorbed or appropriated, whence the Kaveli plain was maintained in the districts so settled, it may not only be inexpedient, but impracticable, to revert to it in such districts.

I shall conclude this topic by a transcript of that part of the emperor Akbur's celebrated economical edict which relates to the police of his territories, as framed by his learned and accomplished minister, Abul Fuzlu. It contains some traits which the Bengal Government appear to have had in view in some of their arrangements.

Extract and Translate. "The Cutwals of cities, kusbahs, towns, and villages, in conjunction with the royal clerks, shall prepare a register of the "houses and buildings of the same, which registers shall include a particular "description of the inhabitants of each habitation. One house shall become "security for another; so that they shall all be reciprocally pledged and "bound each for the other. They shall be divided into districts, each having "a chief or prefect, to whose superintendance the district shall be subject. "Secret intelligencers or spies shall be appointed to each district, who shall "keep a journal of local occurrences, arrivals, and departures, happening "either by day or night. When any theft, fire, or other misfortune may "happen, the neighbours shall render immediate assistance; especially the "prefect and public informers, who failing to attend on such occasions, unless "unavoidably prevented, shall be held responsible for the omission. No "person shall be permitted to travel beyond, or to arrive within the limits of "the district, without the knowledge of the prefect, the neighbours, or public "informers. Those who cannot provide security, shall reside in a separate "place of abode, to be allotted to them by the prefect of the district and the "public informers. The receipts and expenditure of each individual shall be "narrowly observed; for when the expense exceeds the revenue some misfor- "tune may be anticipated. All this, however, should be done in the spirit of "beneficence and good will, as the provision is meant for the protection and "benefit, and not for the molestation or oppression of the community. The "dealers of every description shall give security that all their bargains and "sales in the markets shall be concluded publicly: if any thing should be "bought or sold clandestinely they shall incur a fine. The names of the "buyers and sellers shall be entered in a journal; and all sales shall be made "with the knowledge of the prefect and public informers. A certain number "of persons in each district shall be appointed to patrol by night the several "streets and environs of the several cities, towns, villages, &c. taking care "that no strangers infest them, and especially exerting themselves to discover, "pursue, and apprehend robbers, thieves, cutpurses, &c. If any articles be "stolen or plundered, the police must restore the articles, produce the criminal, "or failing to do so, become responsible for the equivalent. The property of "persons absent or defunct shall be ascertained and delivered to the heirs, "if such there be; if not, the property shall be retained in deposit, and the "circumstances reported to the imperial officers, so that the proprietor may "be found and the property surrendered. In these transactions integrity and "probity are indispensably requisite, lest we should incur the stigma of coun- "tenancing such enormities as are practised in Greece. The most rigid vigi- "lance shall be exerted to prevent the use of intoxicating liquors, the con- "sumer, seller, drawer, or manufacturer of such, shall receive such punish- "ment,

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" ment, by order of the Magistrate, as may deter others from similar irregu-
" larities. But it is not meant to interdict the use of them by way of medi-
" cine or useful experiment.

" Care shall be exerted to reduce the current market prices, and to prevent
" capitalists from engrossing commodities, in order to sell them extravagantly
" by retail," &c. &c.

Query 12.

Can you state what the limits and superficial contents were of the district in which you acted?

Reply.

Having been always employed in the superior, or controlling departments at the presidency, this question does not exactly apply to me. The zillahs having been but recently formed under the presidency of Madras, no measurement of their superficial extent had been made. They are frequently, but not always, co-extensive with the area of the collectorship in which they are respectively situated, and are much more compact than the Bengal zillahs, of which (as in some measure explanatory of this query), I annex a list.

List of the Zillahs or Courts of Adawlut under the Bengal Government.

		Zillahs. Square Miles.	Circuit Courts. Square Miles.
	CALCUTTA.		
1	Sudder Dewanny and Nizamut Adawlut.		
2	Provincial court of appeal and circuit.		
3	Zillah Hooghly and Company's courts	4,000	
4	Do. Burdwan	5,000	
5	Do. Nuddea	4,000	
6	Midnapore	6,000	
7	Jessore	5,000	
8	Beerbhoom	7,000	
			31,000
	MOORSHEDABAD.		
9	Provincial court of appeal and circuit.		
10	City court of Moorshedabad.		
11	Zillah do. of Moorshedabad	4,000	
12	Do. do. of Rajeshahye	6,000	
13	Do. do. of Rungpore	10,000	
14	Do do. of Dinagepore	5,000	
15	Do. do. of Purnea	6,000	
16	Do. do. of Bhagulpore	9,000	
			40,000
	DACCA.		
17	Provincial court of appeal and circuit.		
18	City court of Dacca.		
19	Zillah do. of Dacca Jellalpore	6,000	
20	Do. do. of Backer Gunge	6,000	
21	Do. do. of Sylhet	4,000	
22	Do. do. of Chittagong	4,000	
23	Do. do. of Momensing	6,000	
24	Do. do. of Tipperah	8,000	
			34,000
	PATNA.		
25	Provincial court of appeal and circuit.		
26	City court of Patna and dependencies	500	
27	Zillah court of Shahabad	6,000	
28	Do. do. of Behar	5,000	
29	Do. do. of Sarun	5,000	
30	Do. do. of Tirhoot	8,500	
31	Do. do. of Ramghur, of which half or more is hill and jungle	20,000	
			45,000
	Carry forward		150,000

Brought forward		150,000
BENARES.		
32 Provincial court of appeal and circuit.		
33 City court of Benares and dependencies, about	700	
34 Zillah court of Juanpore	4,500	
35 Do. do. of Mirzapore	4,800	
		10,000
Total number of square miles comprehended under the several courts of Adawlut in Bengal, Bahadur..		160,000

N. B. When the numbers of square miles greatly exceeds six thousand, it is owing, in great measure, to the waste and wood lands comprehended in these districts.

(Signed) A. FALCONAR.

THOMAS COCKBURN, ESQ.

Query 1.

THE system of judicial administration established at Madras, and the provinces depending upon it, or more properly speaking, the constitution conferred on our Indian subjects by the East-India Company, under the authority of Parliament, is, in my opinion, well calculated to secure the greatest blessing a people can enjoy, and the primary object of all good government, and impartial administration of the laws.

I shall here quote the thirteenth clause of the Sumred Istimrar granted by the Government of Madras, on the part of the Company, to the Zemindars and proprietors of land, with whom permanent settlements of the land revenue were made, as exhibiting an abstract of the principles of the new constitution.

" The foregoing conditions contain an abstract of the obligations and duties " which you shall incur, and of the rights which you have acquired, under the " new constitution erected for the security, protection, and prosperity of the " subjects of the British Government: but for the enlargement of that consti- " tution, and for the improvement of the condition of the people, the Governor " in Council will continue, from time to time, to enact such regulations as " experience may suggest, or the progress of human affairs render necessary. " Such Regulations will be administered by independent Judges, in consti- " tuted courts of judicatuie, governing their decision by the laws only. The " decrees of those courts will be founded on the Regulations of Government, " printed, published, and translated, for the information and security of its " subjects; and on the institutes of the Hindoo or Mahomedan laws, which " are also open to the inquiry of all persons. The proceedings of the Adaw- " lut will be held in open courts, accessible to persons of every description. " All parties will be at liberty to attend to their own interest, by their pre- " sence in the court during such proceedings, or to employ their Vakeels, " with such instructions, regarding the mode of prosecution or defence as may " appear to be most eligible to themselves. The sentence of the courts will " be pronounced in the same public manner, and executed by civil authority, " without the interposition of military force. The Collectors, and other public " servants of the Government, will be compelled to appeal to the courts of " judicature, for the adjudication of all cases in which, by virtue of their offi- " ces, they may be parties; and, finally, the greatest practicable degree of " security has been extended to the native subjects of the British Government, " by the establishment of a gradation of appeal from the zillah court to the " provincial court, and from the provincial court to the court of Sudder Adaw-

 " lut

"lut at the presidency, and in the last resort from the court of Sudder Adaw-"lut to the Governor-General in council of Bengal." *

The Regulations passed and published, from time to time, for the purpose of preserving to the Hindoos and Mahomedans their respective laws, and for ensuring the due execution of them, appear to me well fitted to answer the objects in view. But, from the extent of the jurisdictions of the several zillahs, it is impossible for the few European Judges efficiently to administer justice to all, and therefore the very great importance of the regulations establishing subordinate judicatures of native commissioners, who greatly facilitate the easy and speedy distribution of civil justice among that class of the people, who could not without great inconvenience to themselves and families seek it at a distance, for which reason it is provided that commissioners shall be chosen in such situations as to prevent individuals from the necessity of travelling more than five coss, or from ten to fifteen miles; and in time no doubt they will be established in every village of any consequence. They act under prescribed rules, amenable to the courts, to which an appeal is open from their decision, and thus European controul is preserved.

The causes which led to the establishment of the present system were so fully explained in the records of Bengal, by its noble and venerable founder, Marquis Cornwallis, as well as in those of Madras, and the evils which it had in view to correct were so distinctly pointed out, that it is not now necessary to revert to them. Individual will was the sole standard of justice. In the provinces under the Madras Government, with the exception of the town of Madras, there were neither civil nor criminal tribunals. Confinement † was the punishment inflicted on the murderer, the robber, and the mere disturber of the peace: impunity encouraged crime, and the blessings resulting to the people from the establishment of the constitution of 1802, and the measures which preceded it, may therefore easily be estimated. I consider it the only solid monument of wisdom erected by the English Government in India. It abolishes feudal rights, which authorized the maintenance of an armed force, not under the control of the government. It has already, in a great measure, and will in time entirely supersede the necessity of military coercion, which has so often proved fatal to the people and to our troops. It will establish the supremacy of law and the civil authority, and thereby give security, stability, and permanency to our Government and possessions in the East.

Intolerant in matters of religion, and arbitrary in its principles, the government of the Mahomedans, established in tyranny, left justice to individual will. Rapine and extortion naturally followed, and that power has been swept away, without leaving behind it a vestige of one useful institution. Nothing, indeed, remains; except the ruins of despotic magnificence and the recollection of the corruptions and rapacity of its officers.

It has been justly observed, "that there is but one way of forming a civil "code, either consistent with common sense, or that has ever been practised "in any country, namely, that of gradually building up the law in proportion "as the facts arise which it is to regulate." To abolish the present system would, in my opinion, be to abrogate what alone can give stability to our Government, and attach the people to our ruler: an impartial administration of their own laws, protection in their religious prejudices, and security of person and property. Property is one of the dearest rights of man: it is by its accumulation that civilization advances, and by securing its possession that the benefits of good government are felt. In India, the legislative, executive, and judicial authorities are now as distinct as the nature of our situation will admit. The system of judicature is, however, yet in its infancy: it is daily improving. It has the happy powers of our own constitution, that of revising and amending as its defects appear, or as "the progress of human affairs may re-"quire;" and what would have become of the English constitution, if its comparatively trifling defects had not been tolerated?

The question in India was reduced to this: Can you, for the government of distant and extensive territory far removed from direct control, and where the choice

* N. B. Subsequently altered to the king in council.

† Vide report of the Madras Revenue Board, 2d September, 1799.

choice of instruments is limited, form men for the execution o a system, the success of which must solely depend on the judgment, talents, integrity, and vigilance of the individual in office; or is it wiser to form a system, not so entirely dependent on the perfection of man? Wisdom and experience decided in favour of the latter. You are forming your servants, by their education, to be more efficient in the judicial line; and time, with intelligent and zealous superintendence, are, in my opinion, alone wanting to render the system as perfect and efficient as human institutions can be. But the energy and vigilance of the superintending authority must never sleep, and even remissness in the subordinate officer should be considered disqualification for employment.

Not having had an opportunity of witnessing the general effects of the system on the Coast, I can only speak from the information of others, and from official documents transmitted from India. By the former I have been assured, that the people feel the greatest confidence and protection in the present order of things; and as a proof of it, we now observe the old decayed shatoh, the emblem of poverty and wretchedness, removed, and tiles and more comfortable habitations substituted, where before such an appearance of opulence would only have led to oppression. We also know that Zemindars and Poligars attend the courts on the simple written summons of the Judge, delivered by a single peon, whose attendance formerly required the coercion of a military force; and I beg leave to quote from a judicial report, recently received from Madras, what, in my opinion, affords very satisfactory proof of the practical benefits already derived from it to the people and the public.

" From the foregoing statements it will appear that, since the distribution o
" civil justice came to be lodged in the hands of the existing establishments *
" for its administration, above two hundred thousand suits have been deter-
" mined, and the disputed claims at issue in them ascertained by judicial deci-
" sions. And these decisions having assigned a legal and determinate owner-
" ship to property, amounting in value to Star Pagodas 96,48,632 43 29, or
" upwards of £3,859,450 sterling, are to be received as having converted into
" improvable property a large mass of the wealth of the country, which other-
" wise the rights and interests therein, being precarious and liable to continued
" interruption, would, it is probable, have remained almost entirely, if not
" wholly unproductive.

" The salutary influence of this alteration in the state of property, under the
" continued protection of the court, in stimulating the exertions of industry,
" promoting the general prosperity of the country, and improving its re-
" sources, are too obvious to need illustration." And, speaking of the former modes of administering civil justice, they observe: " But judicatories so irre-
" gular and undefined, contained in themselves no one principle of improve-
" ment. They partook of nothing that should tend to ameliorate either the
" ideas and exercise of justice or the state of society: they were too unequal
" to lead to the establishing of rules to regulate future decisions, and too un-
" settled to contribute to the introduction of juster sentiments concerning
" government, order, and public security."

The advantages of the present system are not, however, to be estimated merely from the number and amount of the decrees of the courts. The evils and injustice prevented by the existence of regular judicial authorities, and by the certainty of punishment, is of the first importance to the community.

Queries 2d and 3d, and additional query.

No record of any Hindoo judicial institutions has, to my knowledge, been found in the provinces under Madras: at least, no trace of any regular judicial proceedings, or of Hindoo courts, fell under my observation. Travancore, the only Government purely Hindoo in the peninsula which has never been under Mahomedan rule, does not, I believe, exhibit any remains of ancient Hindoo judicial institutions. The rajah, or prince, personally or by delegate, is supposed to distribute justice to his subjects. In modern times, the settlement

* Only a few of the zillah courts were established prior to 1806, when they were extended throughout the provinces, but they were not in full operation until 1807.

Answers to Court's Queries.

T. Cockburn, Esq.

ment of disputes relating to property is, I have been given to understand, generally referred by the revenue officers, as the representatives of the prince, to punchayets or arbitrators, whose awards are enforced or reversed at the will of such officers, as party feelings or corruption dictate. A change of revenue officers is the signal for the renewed efforts of the disappointed party, which are usually followed by fresh arbitrations and tankeeds, or orders, reversing the last decision; so that claims on the grounds of disputed property may there be said to be intermissable. Offences against religion, caste, and morals, disputes in regard to marriages and family feuds, are generally referred to the heads of the caste, who punish by fines, penances, suspension, and even expulsion from caste in aggravated cases.

This is nearly the history of the mode of administering justice practised in most of the provinces under Madras, previous to the establishment of the present system. Collectors charged with other extensive and onerous duties, though possessing every desire to do justice, were under the necessity of delegating their authority to Tehsildars, whom they instructed to refer causes concerning property to punchayets or arbitrators; and, in some instances, directed that, after arbitrators were assembled in the cutchery with all the requisite evidence, care was to be taken to come to an ultimate decision, before the arbitrators were to be allowed to break up or quit the cutchery, as the only means of preventing their practices of corruption and intrigue. But the Tehsildars had also more important duties to fulfil, and every precaution that could be taken, under the loose and desultory manner in which such proceedings were carried on, could not prevent the existence of great irregularities; and it is observed, in the judicial report to which I have already referred, that of this the records of the existing courts afford many proofs. "They contain causes, "the subjects of which had been sources of litigation for time almost immemo-"rial, not unfrequently adjusted in favour of this party or that, according as "the caprice of passion, or pliancy, or venality gave direction; and applica-"tion for the enforcement of sentences passed by former authorities have been "the occasion of a laborious part of the duty of some of the zillah courts." The system of arbitration seems the principal, if not the only proceeding, in matters of disputed property, practised among the Hindoos in latter times; for although an establishment of village servants has immemorially existed in every village, from the Curnum, or register of accounts, to the village barber, with enam, or free lands, and fees, allotted for their support, as also for the support of religious institutions, and in some for schools, &c. yet there appears no provision of any description for officers or courts of justice.

Arbitration already forms a prominent part of the present system of judicature, and is strongly recommended in the Regulations themselves, for the purpose of relieving the courts from the pressure of suits. Provision is therein made for determining by arbitration matters which the parties may themselves resolve to submit to arbitrators, without the intervention, in any shape, of the established courts, except that of giving efficacy to awards. In suits preferred to the courts in certain cases, (and it would be desirable to extend the option to all), the Judges are directed to recommend the parties to submit the decision of the matters in dispute to arbitration, and to afford every encouragement in their power to persons of character and credit to become arbitrators.

In closing my reply to these queries, I cannot avoid quoting the observations in the judicial report from Madras on this subject, which are particularly deserving of attention.

"Every facility is therefore given to the determination of suits by arbitra-"tion, it being at the same time ordained, that the period for delivering the "award shall be fixed, and not postponed indefinitely, as heretofore, according "to the caprice of an arbitrator or the chicane of a party; and that the award "shall become a decree of court, and shall not be set aside, except on full "proof that the arbitrators have been guilty of gross corruption or partiality in "the cause.

"But with this improvement of the undefined method supposed to be re-"sorted to by the natives for the settlement of their disputes, it is known that "the courts have rarely succeeded in persuading persons who have brought

"suits

"suits before them to submit the issue to arbitration; and in an instance which "has recently come under their notice, the statement of suits depending exhibited fourteen hundred and eighteen before the Judge, Register, and native "Commissioners, but five only before arbitrators: a fact evincing, it is submitted, on the part of the natives, a decided and natural preference to that state "of things, in which the solemn duties of judicial investigation are discharged "under the influence of character and personal responsibility, over one in which "the claims of individuals on each other are left to be adjusted by the opposing "opinions of arbitrators chosen for the occasion, whose judgments are commonly regulated much less by a desire of doing substantial justice, than of obtaining the most favourable award for the party by whom they are nominated.

"It is further to be remarked, respecting the existing petty courts, that "the number of native Commissioners requisite for each zillah, who are intended to be so stationed as to afford to the poorer and labouring classes of "the inhabitants, in their transactions with each other, a convenient resort "for the immediate determination of their differences, is not yet completed; "the public advantage accruing from their appointment is therefore to be "considered as being still in progress. The consummation of the arrangements necessary for this purpose has been retarded, in some cases, by the "difficulty of finding persons sufficiently men of business and character, to "discharge satisfactorily a trust so delicate, and one, too, that is so closely "connected with individual comfort and prosperity; in others, by the disinclination manifested by persons of adequate respectability and talent to undertake a duty which, without promising any immediate personal advantage, "seemed to be laborious to a degree alarming to their habits.

"But impediments of this sort are constantly diminishing in an inverse ratio "to the advancement of the system, its influence on the character and improvement of the mind being among the most obvious and forcible of its "effects. It is the protection of regular government, with the expectation of "personal security which naturally flows from it, that induces men to make "progress in science, and to aim at attainments and acquirements, which periods of alarm and insubordination, destructive of public confidence in the "Government, are ill suited to favour; and it is to be expected, that the reluctance shewn to submit to the labour and responsibility of judicial functions will gradually wear off, in proportion as the principles and advantages "of the new constitution are better known and more generally felt; and as to "those now holding commissions, to whom the under-renters, Ryots, and "others look up for decision in their most important concerns, require consideration and influence in society.

"Notice has already been taken, incidentally, of the small proportion which "the number of appeals against decisions of the native Commissioners bear to "the total number of causes decided by them. But this part of the subject "appearing to the court to merit more particular mention, they are induced, "before they close these proceedings, to state, as will be found on reference "to the abstracts herewith submitted, that the sum of the causes decided or "adjusted, during the last year, by the Judges, and Assistant Judges, in "appeals from decrees of the native Commissioners, and of the causes depending in appeal before these officers, on the 1st of ultimo, does not exceeed 1,899, while, as has been shewn before, the number of suits decided "by them in the year was 33,232."

Queries 4 and 5.

I am decidedly of opinion, that the present system is to be preferred, and should be continued. It is founded in plain obvious principles of equity, having reasonable reference to the native laws and prejudices. It requires nothing to render it efficient to every good purpose, but zeal, with integrity and common sense in the Judges; but it is essential they should make a conscience of their duty, for a native, without the vigilant control of the European, does little good, and may do much harm.

There is, however, no system unsusceptible of amelioration; but it is a difficult task to devise real improvements. What in theory appears appropriate

 and

and desirable, is in practice often found defective or impracticable in the execution. Those in the immediate superintendence of the machinery of executive justice, who look to the subject in all its bearings, are certainly most competent to form correct opinions as to the eligibility and fitness of proposed amendments: I, therefore, with great diffidence enter upon the subject; but with the less apprehension, as, I conclude, whatever is suggested on this head will be submitted to that ordeal.

The access of the natives to justice is, I believe, generally speaking, sufficiently easy, and the proceeding established by the Regulations simple and well understood. The expense is, I apprehend, as moderate as, under all circumstances, may be considered expedient and desirable. Great inconvenience to the Judges, and injury to the fair suitor, had been experienced from the institution of litigious and groundless prosecutions; for the power vested in the courts to amerce such offenders could only be exercised on the issue of the cause, after its time had been unprofitably consumed, therefore the propriety (I may say the necessity) of establishing reasonable fees, with a view to prevent the files from being crowded with frivolous vexatious plaints, such fees not being injurious to the suitor whose just claim is established, since the amount is added to the costs decreed, except there be good reason for deviating from this rule, while they operate as a punishment on the party who resisted the payment of a just debt.

The chief disadvantage is the extent of the jurisdictions of the zillah courts; an anxious desire to avoid increasing expense having induced the Government of Madras to reduce the number to twenty, excluding that at Seringapatam, which is insulated. This disadvantage will, however, diminish in proportion as the subsidiary native courts are extended and improve in practice. At present, the native Commissioners,* who act under regular commissions from the courts, and under oath amenable to them for every act, are remunerated for their trouble, and the expenses they may incur, by a fee of one anna per rupee levied on all suits instituted before them, or that may be referred to them by the Judges. The fee is collected before the plaint is filed, and the amount received endorsed upon it. But the money is not immediately appropriated by the party receiving it: it is remitted monthly to the courts, with the monthly return of causes decided; and as a stimulus to exertion, the Commissioners are only paid as the causes are decided. The head Commissioners, to whom causes of a higher value are referable,† are remunerated in the same manner; but the Regulation appointing them declares, that if, in any instance, this allowance shall be found insufficient, the Governor in Council, on the representation of the zillah Judge, and at the recommendation of the Sudder Dewanny Adawlut, will sanction such addition thereto, as may appear requisite for the encouragement of well qualified persons to hold the office of head native Commissioner, and perform the duties with diligence and fidelity. Nothing, in my humble opinion, can be more essential to the attainment of these objects, than rendering the situations desirable objects of ambition to our native subjects. A just economy is indispensable and highly praiseworthy; but that economy can never be consistent with prudence and good policy, which denies to men in responsible situations a fair reward for their services. It should, therefore, be recommended to the Governments abroad to give their serious attention to this subject, and to consider how these objects can be accomplished with the smallest charge to the state, as also what marks of distinction would be most acceptable and proper to confer on those who eminently distinguish themselves in that line of service. It is almost needless to observe, that misconduct, on the part of the Commissioners, should be visited with the severest punishment.

It has been suggested, that as their emoluments depend on the quantum of litigation, the Commissioners are rather inclined to encourage than repress it; and, upon this ground, it has been recommended by some that the fees should be collected in behalf of the Government, and that salaries should be allowed to the

* Suits for personal property, not exceeding eighty rupees in value, are cognizable by these commissioners.

† Cognizable by the head commissioners: suits for personal property, not exceeding one hundred rupees; Mulgazary land, not exceeding one hundred rupees per annum; or Luckhuray land, not exceeding ten rupees per annum.

the Commissioners from their treasury. It is possible this may have some influence in multiplying their labours; but it is not very reasonable to suppose the people will not subject themselves to certain expense, when they find little advantage to follow such a course, especially as the decreess of the Commissioners are not final, and as no fees are allowed to them upon causes dismissed. This point might, however, be recommended to the consideration of the local Governments and the Sudder Courts.

The same remark has been made in respect to the native pleaders, as stimulating the naturally litigious disposition of their countrymen, and that their fees should also be collected by Government, and salaries appointed for as many Vakeels as may be necessary to conduct the business of the suitors. This, however, would prevent the advantages of the pleaders from being proportionate to their zeal, ability, and integrity: it would take away the stimulus to exertion, and impede the progress of justice; for, at present, they only receive payment of their fees when a cause is concluded. Suitors may either employ Vakeels or plead their own cause. The number is limited, their characters are enquired into before admission to be pleaders, and they are liable to dismission for incapacity or misconduct in the discharge of their duty, or for gross profligacy or misbehaviour in their private conduct, when proved to the satisfaction of the Sudder Court. The advantages derived to the community from possessing a class of men versed in the laws and Regulations are too obvious to need comment.

With a view, also, to relieve the Courts, the Judges are empowered to refer to the Collectors for information relative to disputes in matters of land, rent, and revenue, wherein neither the Government, the Collector, or his public or private servants are parties, whose reports enable them to expedite such causes.

The disadvantages of the existing extensive jurisdictions would also be considerably ameliorated, if it were practicable to enable the zillah Judges to give nearly their undivided attention to the duties of the civil Courts, by relieving them from the immediate superintendence of the police, which requires more time and consideration than the Judge can bestow upon it, consistent with its efficiency and the perfect discharge of his other duties. An alternative was, with this view, suggested by a Committee of Police which sat at Madras in the year 1806, and which I consider deserving of particular consideration. It proposed that the immediate superintendence of the police within their collectorates should be entrusted to the Collectors, in the capacity of Magistrates or Judges of the peace, which could be done without diminishing the power and concurrent jurisdiction of the zillah Judges; and it further proposed that Commercial Residents should also have commissions of the peace, but without any power to interfere with the Superintendent of Police, nor to issue any order or process to the police office, except warrants for the apprehension of offenders under defined Regulations.

The Committee stated their reason for being of opinion that the Collector, from having such various channels of daily obtaining the earliest and best information of every thing passing throughout his district, possesses the most efficient means of superintending a vigorous police, and that this arrangement would remove the complaints and existing difficulties experienced from the village Talliars or watchers (officers equally important to the revenue and police) being continually subject to two authorities; that the Judges and Magistrates of the zillahs, whose authority is to remain unaltered and unimpaired, would still be empowered to transmit to the Collector, in his capacity of Superintendant of the Police, any suggestion for the improvement of that department, but that the Superintendant shall use his own discretion, in adopting or declining to adopt such suggestions, provided that, in the latter case, the Superintendant shall transmit to the Judge and Magistrate his reasons in writing, in order that they may be submitted, if not satisfactory to the Judge, to the Foujdarry Adawlut, and eventually, if deemed necessary, by the latter court, to the Governor in Council, who would be able to decide with the fullest information before him, and the Government would find no difficulty in establishing a perfect and zealous co-operation for the general good. The Committee observed, that there seemed no reasonable ground for apprehension, that the Collectors, in their

their magisterial capacity as Superintendants of Police, would abuse the defined powers which may be entrusted to them, or that it would give them any additional or improper powers in the execution of their ordinary duties, which are defined by Regulation, and for the due execution of which they are amenable to the laws; that their magisterial powers of apprehending and committing offenders would be equally subject to control, as it would not be necessary that they should possess the power of inflicting corporeal punishment, of levying fine, or of committing to temporary imprisonment; that they should only be authorized to commit offenders for trial by the appointed courts; and finally, that it would not materially interfere with or impede their other duties, the Superintendance of the Police having been formerly part of their functions, and in a manner amalgamated with them.

The proposition of the Committee for enabling the Judges, Commercial Residents, and Collectors, in particular situations, or the two latter when the former cannot attend, to hold a quarter session, or monthly, if practicable, for the trial of such offences as it might be improper in the Magistrate to decide singly, but which might not be sufficiently important to require their postponement until the arrival of the Court of Circuit, is also deserving of attention, not only as tending to relieve these courts, but with a view to prevent the accused individual and his family from being subject to punishment by long confinement, beyond the measure of his crime. The Regulation submitted by the Committee for carrying their suggestions on this head into execution, should be recommended to the especial consideration of the Government of Madras; and if found not radically or materially objectionable in principle, it might be adopted, with such amendments as subsequent experience shall have suggested.

In a country where the European constitution is liable to frequent attacks from the effects of climate, the indisposition of the Judges, and other temporary causes, may, in the present extensive jurisdictions, occasion a heavy addition of causes on the file. The only regular and efficient means that can be adopted to remedy this evil, when it occurs, is that which is now practised, with a view to prevent a permanent increase of the business of the courts, viz. the special appointment of an Assistant Judge; and this has been found to answer the desired end. It should be the particular care of the Governments, that vacancies in the courts are filled up as soon as possible after they occur, and that merit and fitness should be the principle of selection. Officers in temporary charge seldom act with that confidence and efficiency, which is necessary to the due dispatch of business. An Assistant (a junior covenanted servant) ought, in addition to the Register, to be attached to each of the zillah courts, who would be of essential use, and soon become qualified to give effectual aid in cases when temporary assistance is required; and I have understood that the Governor-General in Council has recently strongly represented the necessity of this. The inconvenience and ill effects of the establishments not possessing a regular succession of younger servants, at a period when there was not such important calls for their services, were particularly noticed by the Committee of Finance which sat at Madras in 1798 and 1799, of which I was a member; and nothing can eventually be of more serious detriment to the public service, than depriving the Governments of India of a sufficiently extended and due selection of instruments for the various branches of that extensive empire.

The rules for promulgating and extending the knowledge of the Regulations passed by the Madras Government, affecting the rights, persons, and property of their subjects, and for enabling individuals to render themselves acquainted with the laws upon which the security of many valuable privileges and immunities granted to them by the British Government depends, ought to be strictly attended to. The English copies of the Regulations, and those in the Persian, Telinga, and Tamul languages, or other of the country languages, are directed to be distributed, as they are passed and printed, in such proportions as the Governor in Council may direct, amongst the courts of justice, the Boards of Revenue and Trade, the Collectors of the land revenue, and other departments, and to such individuals to whom it may be thought necessary to deliver copies. Copies are, or ought to be, always open to public inspection in all the courts, and the Vakeels are required to take copies of them; and they should also be

placed

placed in the cutcherry of the Collectors. I conclude it is the province of some public officer, under the superintendance of the courts of Sudder Dewanny and Nizamut Adawlut, to take care that these rules are observed, and that the Regulations are duly preserved and delivered over complete to the successor of the parties to whom sent.

It would also tend to improve the officers and forward the ends of justice, if copies of the translations of the most approved digests of Hindoo and Mahomedan law, and a copy of the elementary analysis of the laws and regulations of Bengal, were transmitted to each court, to be placed among the official records. It is also of great importance, considering the number of local languages in use under the Government of Madras, that the College established there should be supported, and the regulations of the institution strictly adhered to.

The Sudder Dewanny Adawlut should also most scrupulously examine the half-yearly returns of causes decided by the several courts and Commissioners, and call for explanation when they find, on comparison either with preceding half-years or the number of causes decided in other courts, an apparent want of due exertion : and that their labours may be more clearly distinguished, I recommend, instead of one column in the half-yearly abstract, shewing the number of causes decreed or dismissed, that the number decreed and dismissed should be shewn in distinct columns ; and that the labours of the European Judges, assistant Judges, and Registers, may also more distinctly appear at one view, two columns, shewing the aggregate number of causes decided and dismissed by them, might be added, immediately preceding the head of native Commissioners. A few causes may, of course, occupy more time, in some instances, than a greater number ; but, in such cases, the circumstance should be noted in the column for remarks.

I shall conclude my observations on this head by a quotation from the analysis I have mentioned, as being pertinent to the subject.

" In concluding the foregoing imperfect recital of the provisions made by " the existing Regulations for the administration of civil justice, in the first " instance, it is impossible to withhold the acknowledgement due to the bene- " volence, equity, and policy which have dictated them, with such evident at- " tention to the interests of humanity, the rights, laws, and prejudices of the " people inhabiting this portion of the British Empire, and the surest, as well " as the most honourable means of maintaining that empire in India, by esta- " blishing it upon the solid foundations of justice, protection, and conciliation. " In the simplicity of the form of action allowed in all cases, varying only as " regular or summary, except in the mode of commencing a suit against Go- " vernment, as well as in the general tenor of the rules prescribed for the " pleading, trial, and decision of every suit cognizable by the civil courts, and " determinable either by specific law or on principles of reason and equity, the " intelligent regard shewn to local circumstances affecting the judicial officers, " as well as the suitors and their pleaders, is equally conspicuous. If, notwith- " standing the number of civil courts which have been established, the permanent " means afforded for the speedy investigation and decision of inconsiderable " causes by the establishments of native Commissioners, as well as in suits to a " larger amount by the extended reference now authorized to the Registers of " the zillah and city courts, and the occasional aid provided for, to expedite " when necessary the whole of the causes depending on these courts, by the " appointment of Assistant Judges, it should still be found that the laws are " not, in any instance, administered with that promptness, certainty, and faci- " lity, which are requisite to ensure their full beneficial effect, it cannot be " doubted that *experience will suggest further remedies to supply this radical de-* " *fect*, and that such measures as may be practicable, expedient, and sufficient " for this purpose, will be adopted. If any thing be wanting to secure the in- " tegrity of the native Commissioners, who now receive no fixed salary, but " are allowed the institution fee of one anna per rupee, in all causes decided by " them upon an investigation of the merits, or adjusted before them by the " agreement of parties, it may also be confidently presumed, that so essential a " requisite to the purity, impartiality, and consequent utility of every judicial " establishment, which has been so wisely and liberally granted to the present " European courts of judicature, will not be denied to those under native su- " perintendants.

"perintendants. These observations, however, are not so much intended to "apply to any known abuses of a general or important nature in the subsisting "inferior courts of civil justice, or to any defects now unprovided for in the "superior courts, as to obviate the force of the only objections which have been, "or can be offered, to the adequacy and efficiency of the judicatures actually "established in accomplishing the just and humane design of their institution, "and of the rules which have been framed for their guidance."

Query 6.

Having already stated the extensive jurisdictions of the courts to be the principal disadvantage of the system, it follows, I am of opinion, that the number cannot be reduced. So long as we retain the Empire of the East, our native subjects have a right to claim what it has been the enlightened policy of the British Government to establish on sound principles, security of person and property, in return for their allegiance and for the large revenues we collect from them.

I am of opinion, that none but useful and necessary offices should be allowed to exist, and that stations of importance and responsibility should be liberally paid. The allowances to the European branch of the courts were fixed by the late Marquis Cornwallis on the most moderate scale of liberal policy, as he was of opinion they should be such as to enable the holders, with proper economy, to return to Europe with a competency in a moderate number of years; and this fundamental principle, essential to upholding public virtue, the national character, and the true interests of the Company, will never, I trust, be lost sight of in any revision of the Indian establishments. It must not be forgotten, that official rank is there to be sustained, and that, since the period when the existing salaries were fixed, nothing has ocurred to render them less necessary: on the contrary, the expense of indispensable European articles has increased, while the interest of money is reduced nearly one half, which will remove the accumulation of competency from the savings of salary (the only means of acquiring an honourable independence, the judicial officers being properly precluded from trade) to, I fear, an unreasonable term of years. Nothing, therefore, can be reduced in this branch of the system; and unless the allowances of the native establishments have been augmented since I had an opportunity of inspecting them, I rather apprehend it would be consistent with just and liberal policy to augment the salaries of some of those who hold the most important situations. What effect, in point of expense, will be produced by the proposed alteration, if found practicable, of placing the Superintendance of the Police under the Collectors, can only be ascertained in India.

The Madras Board of Revenue, in their report on the urgent necessity of introducing the present judicial system on the Coast, adverted to the attendant increase of expense; and they observed, that the saving in the detail charges of collection in the districts permanently settled, and a proposed augmentation of the revenue derived from salt, would in a great measure, they hoped, meet the charge to be incurred for this important object. I have not the aggregate amount of the existing judicial charges on the Coast before me, but I believe the reduction of charges of collection in the settled districts has been considerable; and I am happy to observe, that the revenue from salt, which at the date of the report, in the year 1799, did not produce 30,000 Pagodas per annum, and at the period immediately preceding the execution of the measure therein recommended, Pagodas 93,763, yielded in the year ending July 1811 a net revenue of Pagodas 6,98,958, affording an annual sum of Pagodas 6,06,195, in aid of the judicial charges. This, I have no doubt, is an increasing fund, furnished by the people at large; and it is peculiarly gratifying to know, that while so large a revenue is derived from this article, the sum necessarily expended by an individual for salt, during the whole *year*, does not exceed at the sale price fourpence. The revenue from stamps and fees, and what may be derived from the police funds of the country, must also be set off against the judicial and police disbursements.

Upon this subject Marquis Cornwallis recorded the following sentiments, in the justice of which I entirely concur.

"However

" However averse I have invariably shewn myself to increase the public " expenditure, a regard for the honour and interest of Britain forbids me to " resist considerations that are founded upon evident principles of true humanity " and sound policy. It would, in my opinion, be unjustifiable, in every point " of view, towards a people who pay so great a revenue, and from whose in- " dustry, our country derives so many advantages, to deny them such part of " the public revenue as may be necessary to defray the charges of good govern- " ment; and I trust I have clearly proved, that the proposed arrangements " are calculated for that purpose, as well as essential to the future security and " prosperity of the British dominions in Bengal. To have suffered, therefore, " the increase of expense, estimating it (as I have done) at the greatest possi- " ble amount, to operate as a bar to the adoption of these, would have been a " destructive and even a criminal species of economy." To this I have nothing to add, but that the expense, on this account, must increase in proportion as your dominion extends.

Query 7.

The present system, I am of opinion, will uphold the British character, inspire confidence and industry in the natives, improve their morals and the country, increase its wealth, and bind the inhabitants, by the strong ties (unknown to them for ages), of personal safety and pecuniary security, to the support of our authority. I have heard it surmised, that the new order of things has or will introduce notions of liberty, not congenial to the soil of India, which has heretofore been ruled by summary justice and a rod of iron, and that this may ultimately affect the permanency of our rule in that country. By men in the higher ranks among the natives, who have been accustomed to exercise arbitrary sway over their inferiors and dependants, and who now feel the restraint of the law, I am not surprized such ideas should be promulgated. It is not easy for any class of men, who have exercised almost unlimited power, and whose will was law, to reconcile themselves to the sober rules which the law prescribes in their transactions, either with their equals or inferiors, and which compel respect for the persons and property of individuals; but, in my opinion, that species of freedom which makes a man feel that he possesses property, and that he has a right under the law to protect it, though it may in appearance render him more independent, or more properly speaking, less servile, will never lessen his attachment to that Government which has secured it to him, and under whose fostering care alone he knows he can continue to enjoy it.

Freedom, founded in and supported by the supremacy of the laws, is not likely to prove injurious to the permanency of a government. The natural effect of such a rule is to render the people more peaceable and subordinate, and does not weaken but strengthen the power of military coercion, when imperious necessity may call for its exertion. The Governments of India which preceded us, and which were supported by summary justice and a rod of iron, have passed away, without leaving behind them any proofs that their principles and institutions are worthy of our imitation. Their foundation stood on a baseless fabric; and if, in the progress of time, ours is destined, as no doubt it is, to follow the general fate of nations, we shall at least enjoy the satisfaction of having used the astonishing power which, under Providence, we have been suffered to acquire in the East, with moderation, humanity, and justice, and exercised the soundest policy in having endeavoured to secure to the people, by permanent judicial establishments, the impartial administration of their own laws and due protection in their usages.

Queries 8 *and* 9.

Beyond all doubt, the natives confide more in the uprightness of European Judges than in Judges appointed from their own people. This seems to me sufficiently proved by the files of the courts being loaded with causes, which, if the natives preferred the decision of their countrymen, they had the power to refer to their arbitration. What has been already stated on this head appears to me conclusive; and in regard to entrusting the administration of justice exclusively to the natives, I am of opinion, generally speaking, the natives, uncontrolled by European authority, can in no degree be trusted with the judicial administration. The effect would be the substitution of legal oppression for the

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the oppression arising from the absence of all law, which was the case before the introduction of the present system. Time, and the beneficial effects of the existing constitution, which it is to be hoped will progressively improve and become more efficient, may work a happy change, in this respect, if attention is given to promote the better education of the rising generation.

Query 10.

The area of the jurisdiction of the four courts of appeal and circuit has been estimated to contain about 123,000 geographical square miles, with a population of upwards of ten millions of souls: the area, therefore, of each of the twenty zillah courts, excluding Seringapatam, if equally divided, would be about 6,186 square miles, and the population about 500,000 souls. But, with every attention to the formation of zillahs, they must, from circumstances and situation, according as they comprehend hills, woods, or wastes, be more or less extensive; and it is to be presumed, the stations for the courts and jails of the zillahs have been chosen in the most central and convenient situations. The area of the jurisdictions of the five courts of appeal and circuit, in Bengal, Behar, and Benares, is estimated to be 160,000 square miles, with a population supposed not much below thirty millions of souls. The jurisdiction of the twenty-seven zillah courts varies from 4,500 to 10,000 square miles; Ramghur excepted, which is estimated at 20,000 square miles, but one half or more hills and jungle. The extent of the Ceded and Conquered Countries I have no estimate of.

Query 11.

The police introduced by the British Government, with the system of criminal law for its support, compared with that which had existed in the provinces under the Madras Government at any known period, may be deemed perfection; yet it is but in progress towards that efficiency which it will no doubt attain. I have already observed, that no institution whatever for the administration of criminal justice existed on the coast, except at the presidency of Madras, until the year 1802. The double government in the Carnatic, and the feudal tenures under which the Zemindars and Poligars held their lands, which authorized them to maintain an armed force in the heart of the country, certainly at the call of, but over which the Government had little or no control, sometimes turning their arms against the Government, and sometimes against each other, precluded the possibility of establishing any regular system. The evils of feudal tyranny had long been felt as a scourge to the country; and the only radical remedy was adopted, that of changing the tenure of the lands, by releasing the Zemindars and Poligars from all calls for military service, commuting the same for a payment in money, absolving and prohibiting the inhabitants from being liable to be called on for military service by the Zemindars and Poligars, and by fixing a permanent revenue on their pollums and zemindarries, which are secured to them and their heirs, so long as they shew due allegiance to the state and conform to the laws and regulations, the Company, at the same time, proclaiming that no military force shall be kept up within their territories but their own. The regulations which followed this happy change, after the licentious power of these freebooters was destroyed, have been productive of the greatest benefit. To shew in what degree the change was felt by the people, I will here insert an extract from a letter addressed to me by the Reverend C.W. Gericke, so early as the month of October 1802, who had travelled from Madras through Mysore into the Tinnevelly country, and so on to Tanjore, from whence the letter is dated. The character of this reverend missionary is well known: he was a man of the purest morals, of perfect probity, beloved by all his flock, and always highly respected and protected by the Government.

" I have great happiness in assuring you, that in this, my long journey, I " heard no such complaints any where as I used to hear formerly; but, on the " contrary, have frequently heard the inhabitants express themselves much " satisfied with their present situation.

" The Hindoos in the Mysore country, in comparing their present situation " with the former, said that their condition would be still better if the Eng- " lish had taken them under their immediate protection.

" As

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" As to the southernmost countries, I mentioned to the good Colonel at " Ramnad the very words in which the inhabitants expressed themselves at " comparing the present time to the former; for instance, where before we " could not travel without great fear in the day, we may now pass with great " security in the night; since the time that the English have got the better " of the Poligars, there is no thief in the thickest jungle. The Colonel* " said it is so, and rejoiced at it, and at the readiness of the people to acknow- " ledge it. We have several times conversed on the present happier state of " the country. He thinks that, when the late institutes shall take place, and " impartial justice be administered to the people, and the obtaining it be made " easy, to them, they will then be as happy as Government can make them."

This statement is corroborated by the more recent accounts from India, in which it is observed,† that " the best evidence of the beneficial consequences " of the present establishments is the present tranquil state of the dominions " under Madras, as being not less general and uninterrupted than wholly un- " exampled in the annals of its history." That partial flagrant breaches of the peace should occur in so extended a territory, a great portion of it so recently rescued from anarchy, is to be expected, and will, I fear, happen under the best arrangements that can be made; but the lawless and violent habits of the natives, heretofore nurtured by impunity, are giving way to the fear of detection and certainty of punishment. It is observed by the Judges in Malabar, where violence and rapine are most prevalent, " the melioration, " in particular, observable in the province of Malabar is very striking. The " inhabitants of this extensive and populous district do now enjoy a degree of " security in their persons and property, to which they have been previous, " and indeed for a considerable time subsequent to the Company's Govern- " ment, but little accustomed;" and further, " from the increase of cultiva- " tion, and the number of substantial dwellings erected by the inhabitants " throughout the province, it may be fairly inferred, that they feel and are " sensible of the security and other benefits arising from the present system of " administration."

I do not mean to state an extreme case, or to say that no improvement can or ought to be made in this department. I speak of comparative improvement and the actual advance of the system, which time and experience alone can render entirely efficient.

The modes practised by the native Governments, as far as we have been able to ascertain them, were first the establishment of Talliars, or village-watchers, which exist, or ought to exist, under some denomination or other, in every village throughout the country. Over them, in many parts of the country, there were district watchers; a power assumed by Poligars, who extended their influence and their exactions in proportion to the weakness of the government placed over them: such also were the head and subordinate Cavilgars. Whatever good might, in old times, have been derived from these establishments, except the village Talliars (and they, also, often in connivance with the others), we only knew them as plunderers, and aiders, and abettors of robbery. They were ostensibly held responsible for property plundered, and collected fees accordingly, but they generally evaded the payment; or if compelled by the hand of power, in any case, to make restitution, it only induced them to commit fresh depredations, to make good the loss which their fees were not adequate to pay. All this is very fully explained in the records of Madras, and the abolition of such officers and such powers was considered indispensable to the establishment of good government. Some Cavilgars still remain; and I observe in the Combaconum zillah, there is sufficient proof that their habits of aggression still prevail. It is, indeed, inseparable from the nature of the institution and habits of that class of people, and must be put down, before you can establish police on a sound basis.

Upon forming the permanent settlement with the Zemindars, Government charged itself with the maintenance of the peace of the country, and in fixing their jumma, excluded all funds usually applied to the purposes of police; but the

* Meaning Colonel Martin, a highly respectable character, who had resided many years in those countries.

† Judicial reports, February 1813.

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the Zemindars were bound to aid and assist the officers in apprehending and securing offenders of all description, and they are also bound to enquire and give notice to the Magistrates of all the robbers and disturbers of the public peace, who may be found or seek shelter in their zemindarries. The Regulations provide for the punishment of Zemindars who are found guilty of neglecting this duty by fine and imprisonment. This is merely for neglect of giving information, and extends to Zemindars, Talookdars, and farmers. A Zemindar who is proved before a court of justice to have afforded actual assistance in harbouring robbers, and aiding or abetting in their escape, is liable, in aggravated cases, to the forfeiture of his zemindarry; and it is well understood that the Zemindars and other individuals are competent to apprehend persons in the actual commission of public crimes.

After giving the subject the maturest consideration, I doubt very much the policy and expediency of the opinion of the Police Committee, to which I have before referred, "that the superior charge of the police in a zemindarry should "be vested nominally in the Zemindar," or that Zemindars should be, in any shape, vested with judicial authority. We are now but eradicating the power and effects of the baneful influence they have long exerted; and to place at their mercy, by giving them the legal power of seizing and sending to confinement all descriptions of persons, under the pretence of their being vagrants or robbers, could not but have the worst effects. Where they were bound to the protection of their zemindarries, and nothing has been added to their jumma for the expense of the police, and where the police has been declared to be committed to them for the time being, when resumed, they are still liable to make good what is necessary for that purpose.

The Committee also suggest, that villages, districts, and zemindarries, respectively, should be held answerable for the amount of property, according to a proposed scale, stolen or robbed within their limits, if the perpetrators were not discovered within six months: the amount or value of the money or goods stolen to be proved on the oath of two witnesses. This, I apprehend, would give rise to great abuse and to many false claims. It would tend to render individuals less careful of their property, and thereby encourage the evil meant to be prevented, and there would be no want of witnesses to support the alleged value. But suppose the amount justly ascertained, and the Judge's precept issued to the Collectors to assess the amount on the zemindarry, he must assess every village according to the rent, and the head-man apportion it on the other inhabitants, and this continually recurring, would, I fear, give rise to indefinite and extensive abuse. You cannot, in justice, hold the Zemindar to be responsible for all property stolen, without giving him the entire power of the police; but to make him vigilant in aiding the police, as he is bound to do so, and as an encouragement to persons robbed within his zemindarry to bring the offenders to justice, a fine, equal to the expense of the prosecution and the loss of time of the party attending the prosecution, might with perfect justice be levied upon him, in all cases of prosecution and conviction for robbery committed within his bounds.

There are, however, still particular situations, where special arrangements may be necessary with the head-men for the regulation of the police; for in a territory so extensive, composed of such a variety of people of different descriptions and habits, no general rule or police regulation, can be made entirely applicable to all parts of the country. This the local authorities can easily ascertain and provide for. Provision must be made, not only against internal robbers, but against the banditti who make incursions from the borders of the surrounding territories; and this can only be done by making arrangements with the Governments of those territories for their better regulation which, possibly the present influence of our Residents, when seriously and strenuously exerted to that end, might in some degree effect. At any rate, permission must be obtained for vigorously following depredators, wherever they may take shelter; which would in time render it the interest and the object of the borderers themselves not to encourage or give shelter to banditti.

In all that relates to police, nothing is so essential as vigilance, energy, and intelligent arrangement in the officers employed. This is particularly exemplified in the different zillahs under Madras, nearly similarly situated in respect to

to police establishments and the means of protection. I observe that of zillah Daraporam, for instance, reduced to a system of complete organization. The Judge of Circuit remarks on this division : " I had an opportunity of observing " more minutely the effects of the excellent arrangements introduced by the " Magistrate ; the police officers active at their stations, and the villagers " equally prompt in the co-operation for carrying into effect the orders of the " Magistrate. The advantages resulting from such a combination of energy " and exertion are the general prosperity and apparent happiness that seem to " reign in every village.. The police duties of this zillah are executed through " Darogahs, Cutwals, and Tanadars."

The Sudder court appear to have submitted the details of the plan pursued by this Magistrate (whose name is not mentioned) to Government for their full information, and I trust it may have led to the introduction of similar arragements in other zillahs. Indeed, nothing, in my opinion, would be more advisable, than to select this very Magistrate, and appoint him to be Supervisor-General of the Police, for the purpose of making a circuit through all the zillahs, with paramount authority, to introduce the plan generally, with such variations as local circumstances may render necessary, first submitting his plan for each, through the Sudder court, for the approval and confirmation of Government. More good will be done by such a measure in a few months, than may otherwise be accomplished in years.

Great attention has lately been given to the subject of police in Bengal, and it appears, from recent reports, that important changes for the better have been effected. I have a letter from a person of the first authority which states : " In regard to police, the measures for the suppression of gang-robbery, which " has been the scourge of Bengal for ages, have proved very generally success- " ful. Provinces which were most infested by dacoits are now cleared of those " pests of society, and not a robbery in six months occurs in districts, in " which numbers were committed daily at the period (three years ago) when " this most important reform, which has been so happily introduced and " established, was first undertaken by us."

This statement is confirmed by the public dispatches from thence ; and I observe a measure of subsidiary police in progress, from which the most extensive benefit to the community and the public will be derived.

The measure I allude to is the complete system of subsidiary police established at Moorshedabad. The Magistrate pointed out to the inhabitants the security they would derive by establishing watchers for the protection of the several divisions of the city, and laid before them a plan for that purpose. No less than 7,224 contributors came forward, who have agreed to subscribe rupees 519 per month, a sufficient sum to pay the watchers no more than one anna one pice and a half, taking the average payable by each person monthly. The result has been the entire security of the city from robbery, in the Thannahs where the arrangement is completed ; and it is to be hoped the plan is capable of extension, and may in time be adopted generally, in all the towns and vilgers of consequence throughout the country, for their own protection, which will tend more to the prevention of crimes than all the general police regulations, and will, of course, if it succeed, greatly relieve that department. This measure should be stated to the Madras Government as one particularly deserving of their attention.

In the early stages of the present judicial system, it might be proper to fence justice by more detailed forms than may be necessary in a state of greater maturity. The Governments in India should, therefore, be directed, in communication with the courts of Sudder and Nizamut Adawlut and the inferior courts, to revise the powers and forms of proceeding in both departments, with a view to render them more summary. Some details have been progressively dispensed with ; and now that the jurisdictions are so widely extended, it becomes a matter of imperious necessity to render all process and proceedings as summary as possible, consistent with substantial justice. Originally, the Magistrates were not allowed to take cognizance of even petty offences : now they do, and a further extension of power would probably be greatly beneficial. And, on the principle that punishment for the benefit of example should

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should as early as possible follow crime and conviction, in all criminal cases, whether of life or death, where the Judges of the courts of circuit confirm the futwah of the law officer, and when the court sees no ground for recommendation to mercy, though report should be made for the sanction of the Nizamut to execute the sentence, I question the necessity of that court revising the trial and thereby so long delaying the sentence of the law. But any change in this, the most important and delicate duty of the courts, will no doubt be well weighed.

Query 12.

I was a member of the Board of Revenue at Madras for upwards of nine years, and a part of the period first member of that Board. The boundary villages were the extent of the detailed revenue management under the Board, but their superintendance extended over all the provinces.

I am not informed of the immediate object which the Committee may have in view in calling for information on these subjects. The last letter addressed to me states, that "the Committee are about to decide on the judicial system." I trust it will not be deemed presumption in me to express a hope, if any vital alterations in the system are suggested or contemplated in this country, that they may, before adoption, be transmitted to the Governments of India, in order that the Honourable Court may possess the benefit to be derived from the experience and mature consideration of the local authorities there, and obtain all the light possible on a subject so momentous to both countries, before a final decision. Nothing can be more injurious than continual fluctuations in our policy in India: it destroys all confidence in the stability of our institutions, and must prove greatly injurious to the character of our Government. No system, however in appearance simple and plausible, will be found without difficulties and defects. The foundation of the present is solid, and I do earnestly trust the superstructure will be improved, not destroyed.* Now that our external relations in India comparatively require a small portion of the time of our Governments, and that they can bestow so much more than has been sometimes practicable to promote the internal welfare and improvement of our eastern empire, and remedy, as far as practicable, what is defective in the existing constitution, any great or sudden change cannot be too earnestly deprecated.

(Signed) THOMAS COCKBURN.

London, 22d January, 1814.

W. THACKERAY, ESQ.

To James Cobb, Esq., Secretary at the India House.

Sir,

I have the honour to acknowledge the receipt of your letter, dated the 7th October last, and to transmit replies to the queries it enclosed.

I have the honour to be, Sir,
Your obedient faithful Servant,
(Signed) W. THACKERAY.

Bath, 1st February, 1815.

Answers to Court's Queries.

W. Thackeray, Esq.

Question 1st.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established in Bengal and the provinces depending on it?

Answer.

A fitter, cheaper, and more efficient system, might have been introduced at Madras; but as the Bengal system has been established there, any sudden change would now be prejudicial. The administration under the Collectors was well, but only calculated for a newly conquered country, to establish the authority of the Government, to ascertain the resources, and introduce proper arrangements. When these objects were completely effected, a regular administration

* Page 341 to 344, Analysis.

administration of justice particularly became necessary. Regular civil courts are essentially necessary to secure private property. What has made England so rich and powerful but the security of property? A man knows that if by his industry he can make ten thousand pounds, he and his children will enjoy it. The ingenious and industrious millions of Hindoos under the British Government, will, in the course of a few years, grow rich, if the fruits of their industry are secured to them, and they can be convinced of it. It was also requisite for the protection of the people to deprive the Collectors of the power of deciding on revenue cases, in which they themselves were in fact parties. But instead of suddenly introducing a complicated judicial system, and enacting voluminous and perplexing regulations taken from the Bengal code, new to the people, the service, and the Government, it might have been better, as the country became ready for and required a more regular administration, to have proceeded gradually. The administration of justice might then have been taken from the Collectors, an European Judge might have been appointed to every large collectorate, and two small collectorates united under one Judge. A small establishment of native writers would have been sufficient. A court of appeal might have been established at the Presidency, and the Government might, in the first instance, have given the courts a few general rules to proceed by, and left the system to grow up by degrees to maturity. The several officers and departments would then have suggested, and the Government would have enacted such rules as experience might have shewn proper and necessary. As it was, the people, the officers of Government, and indeed the Government itself, had to learn the Bengal code, which they found suddenly imposed upon them as the law of the land, and great inconvenience was felt before it was generally understood, and the business of the country could be regulated in a manner to suit it. But any violent change of system now would produce as much, or more immediate inconvenience, than its first introduction, because great pains have been taken to introduce it, and the business of the country has now for some years been regulated according to this system. Such a sudden change would, however, be prejudicial, chiefly because it might teach the people to doubt the consistency and wisdom of the Government. All innovation is dangerous, particularly in Indian government, and where property may be affected. There have been too many changes already. The Bengal system, as an innovation at Madras, was attended with some risk. It has now, however, been completely established and is understood; and although not the best system that could be devised, is certainly safe and open to improvement. It is proper, therefore, to correct and improve, but to avoid any violent change, as not only productive of immediate inconvenience, but likely to shake the confidence of the people in the consistency of the Government and the stability of the laws and their own possessions. It is not yet possible to give any decided opinion as to the effects of this system: the effects of a general system are not felt soon, or, at least, known. Some inconvenience attends every change of system. It is certain that the state of the country has improved very much during the last few years; particularly that those rebellions and disturbances, which were attended with consequences far more extensive and serious than was generally supposed, have entirely ceased, and that the lives and the little property the people possess are as secure as in most places in Europe. No person acquainted with the affairs of the country can doubt this improvement, which, it will be found, is entirely owing to the strict and prompt administration of justice under a strong Government. The Collectors, also, did certainly, in several districts, compel the Ryots to take more land and pay more rent than they could afford. Over zealous but honourable young men might plunder the country more completely, perhaps, than a Mahratta army could have done. Individual instances of over assessment occurred, perhaps, in every collectorate. Under the native Governments, the people could evade or resist; but under the Company's Government, the Collectors are too honest to be bribed, the Government too strong to be opposed. Want of knowledge or discretion was therefore more injurious to the people. The Ryots have now been emancipated; they may cultivate, or pay rent or not, as they choose. If ill treated in one district, zemindarry, or collectorate, they may remove to another, or obtain moderate terms by threatening to remove. In short, they now bring their labour, industry, and stock, to a fair market, which they never did before the establishment of the courts. The Collectors had too much

 power,

power, and with the best intentions might abuse it. Their first duty was to collect the revenue, and they might expect to be praised or blamed according to the amount of their collections.

2d. Do you conceive that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

3d. Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions in Bengal, particularly the system of village courts and decision by punchayet?

The decision by punchayet is an ancient Hindoo institution, generally known and respected in India, like the trial by jury in England: as I have seen it in practice, the parties each chose two or more members; the Aumil or Collector on the part of the Government, one or more. The whole, so chosen, composed the court. The parties were obliged to execute a deed agreeing to abide by their award. The members of the court were compelled to sit, generally in the cutchery, until they had made up their mind; and their award, if it appeared just, was confirmed by the Aumil or Collector, and carried into execution. When the Aumil was a man of integrity and ability, this was as expeditious, cheap, and satisfactory a mode of settling disputes as could be desired. The zillah Judges have, in many instances, taken great pains to have causes settled by arbitration, which is, in fact, the same thing as the punchayet; but as the court cannot legally compel the attendance of the arbitrators, it has generally been found difficult to get them to come to a decision. It would be proper to enact a Regulation to compel individuals to sit as members of a punchayest, like jurymen here; and this mode of settling disputes might be made general.

4th. If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any meliorations that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the expense of suitors; and, in general, what, in your opinion, are the best means of remedying any existing defects in the system?

The present system is susceptible of meliorations, but improvement must be gradual. The whole system may be considered under three heads: civil justice, criminal justice, the revenue laws.

I have stated the manner in which I think the civil courts ought at first to have been constituted. I think the present system should be simplified and reduced as near that I have described as circumstances may admit. The present courts should be continued, but the whole native establishment dismissed, with the exception of the Pundit to expound the Hindoo law, and a Record-keeper, with a small establishment of writers and Peons, merely to copy and preserve the records in each court. All copies of papers and accounts, and translations when required, should be done by hired writers, and all process served by Peons, at the expense of the parties. There are always writers and Peons about the courts waiting for employment, and employed at present as occasion requires. The amount to be paid should be inserted in the decree, as the amount of the fees of the pleaders, and other costs is at present inserted. All disputed accounts and causes, not easily settled by the European Judges, should be referred to a punchayet, and every native should be liable to sit on punchayets. All forms, not absolutely necessary to secure a right decision and prompt execution, should be abolished.

With respect to criminal justice, it is difficult to simplify the system without abolishing the Mahomedan law. Where this law was too savage or absurd for the British Government to adopt, it has been modified, and as it now stands affords a tolerable rule to regulate the punishment of offenders; but it is tedious and expensive. There is a large establishment of Mahomedan law officers, who are in fact the Judges; and of Moonshies, to translate every document relating to each case into Persian, that the Mahomedan law officers may understand it. The rules and forms which it has been thought fit to establish, and the modifications of Mahomedan law which were necessary, occupy much of the European Judges' attention. It may, however, be found practicable to dispense

dispense with many writings and translations now required, especially in cases of petty offences, and where the Magistrate thinks there are no grounds to commit for trial the person charged with an offence. In particular cases, indeed, he should be expected, and for his own safety and satisfaction should take down the depositions in writing. The original error in the permanent settlement, in considering the Zemindars, who were in fact military, revenue and police officers, landlords, and in selling the estates to Mootahdars, which has already been sufficiently explained, gave birth to the system of revenue laws, which forms a great part of the code of Regulations. This part can only be simplified partially and gradually. Where there are no Zemindars or Mootahdars, or where estates held under that tenure fall in to Government, the settlement should be formed directly with the Ryots, and there a simpler system of revenue laws may be introduced.

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5th. What do you take to be the chief advantages and disadvantages of the British judicial system?

Compared with other courts, and considering the difficulties under which the system was introduced, it must be confessed the Adawlut courts on the Coast are neither very tedious nor expensive to the suitors, and they certainly afford greater protection to the people than they ever enjoyed before. In all countries under any system, justice, if well administered, will be slow and dear. In England, even, where justice is better administered because property is more secure than in any other country, a prudent man will submit to great inconvenience, or even loss, rather than encounter the delays, expense, and vexation of a law-suit. It will be found that the Adawlut courts on the Coast are not much more tedious, and certainly far less expensive to the suitors than the English courts or the supreme court of Madras. On reference to late reports from the Sudder Adawlut at Madras, it will appear that there was no very great arrear of business depending, and that suits were generally settled within a reasonable period. As the Judges get more expert, and the people better acquainted with the principles of law and justice, it may be expected the business will be further reduced. The inexpertness of the Judges and ignorance of the people contributed to occasion much unnecessary delay and trouble at first. With regard to the expense to the suitors on the first introduction of the system, the expense of losing a cause was so small, that litigations were encouraged. It often appeared worth while to prefer or resist any claim on any grounds: there was a risk of losing a little, but a chance of winning a great deal. A cause in court was like a lottery ticket. In taking upon themselves almost the whole expence of justice, the Government was too liberal. The courts were in consequence at first overwhelmed with a mass of business, which under any other system would not have come into any court at all. When the courts and people became more experienced and additional fees were levied, many of those causes which the parties were conscious would not be supported were privately settled and withdrawn, and the courts were relieved, and enabled to attend to the business of those suitors who had too much confidence in the justice of their cause, or too litigious a spirit and too much money to give up the point without a struggle. The people are now under a system of regularity, security, stability, and freedom, which they never enjoyed before. The process in civil cases is not expensive to the suitors, and in general ought to secure a right decision at last. These are the advantages of the system: the expense to the state, delay, and the corruption among the natives about the courts, are the evils to be apprehended. The system is too complicated, too formal. Let any person unaccustomed to the system, but acquainted with the laws and customs of the natives, the revenue, and the police. look over the Madras Regulations, which have now swelled into several volumes, and he must wonder why those minute rules and tedious forms were so multiplied. Even the shape and size of the seal to be used by each officer is detailed. Already it requires a twelve-month's study to become master of these Regulations. Every young Judge, Collector, or Secretary is anxious to legislate, suggest a new regulation. In a few years neither the people, nor even the Judges, will have time to learn them. If much of the time and attention of the European Judges are occupied in studying these forms, they can devote but little to the real business brought before them, consequently either substantial justice must be neglected or delayed, or there must be a greater

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greater number of Judges than is absolutely necessary for the business of the country. The Government will find it their interest, as well as duty, to give the European Judge a large salary, for deciding the numerous and important civil suits, which must constantly arise as the people get rich, with ability, diligence, and integrity, but not for an accurate knowledge and diligent observance of the forms prescribed in this code. Forms also encourage and cover corruption. Almost all native servants are corrupt: the forms prescribed require a large establishment of native writers and servants. Although the natives about the courts may not be able directly to influence the Judges, they may render great assistance to the parties in the several stages of a process: they may combine and extort money by threats, promises, and pretences; they may occasion delay, or even tutor witnesses, or alter or carry away documents. The Judge does not consider it his duty, indeed he might be wrong, to receive private information, and there would be no end to the stories brought him if he once listened to informers. A formal process is prescribed, in case the native servants are charged with fraud, bribery, or extortion. In some cases they must be tried and convicted; in others, a reference must be made to the superior courts before they can be dismissed. They know their independence and the difficulty of obtaining legal proofs, and are bold. The Judge knows it too, and is often afraid that, after much loss of time and labour, he may fail in establishing their guilt or getting a more honest set. On the other hand, if the servants were liable to be discarded at pleasure, every new Judge might bring some favourites of his own to fill the principal offices; the business would be retarded, and the new set, expecting but a short stay in office, would make the most of their time. Under the former system, those occasionally employed by the Collector in his summary administration of justice were, no doubt, equally ready to take every thing they could get, and where the Collector was supine always did; but there were so many eyes upon them, the Collector had so many sources of information, and laid himself out so much to get information, they were generally detected. The more servants, the greater their responsibility and importance in the opinion of the people, the more danger of corruption. Every form, therefore, not absolutely necessary to secure a right decision and prompt execution, is not only a source of unnecessary delay and expense, but of corruption, because it increases and shelters the establishment of native servants.

6th. If you are of opinion that the system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts or the scale of establishment (particularly in the native servants and their allowances) for these courts?

The present establishment of European Judges is sufficient for the business of the country, if the shortest and simplest mode of doing it were adopted. At first it may appear difficult to simplify the system, without limiting references and appeals, and giving great discretionary power to the Judges. As there is an appeal in almost all civil suits, the depositions of the witnesses must be carefully written down, to enable the court of appeal to form a true judgment. This is a tedious and expensive process; but if the depositions were not written down in the original court, it would be necessary to send for the witnesses a second time, perhaps several hundred miles, to give their evidence before the court of appeal. The parties, too, would in fact be deprived of the benefit of an appeal, which is a second more deliberate judgment on the same evidence. One great and necessary check on perjury would be removed; and although the process may be somewhat tedious and expensive, it secures a right decision at last. I am convinced the right of appeal and reference, and the practice of taking down in writing the evidence, are highly satisfactory and really advantageous to the people: but the system may still be simplified, without depriving the suitors of these advantages. The regulations should be carefully revised, the practice of the courts considered, and every form, report, and proceeding, not absolutely necessary, should be discontinued. All English reports, many Persian and English translations might be dipensed with. If the native establishment in each court were reduced to the Pundit and Record-keeper, with only as many writers and Peons under him as are necessary to preserve the records, it may be found easy to dispense with many forms now thought important.

7th. Considering

7th. Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Every thing should be done to make the courts respectable, not only to secure the lives and property of the people, but to preserve some sense of honour and morality among them. Under the British Government the natives will become more peaceable and industrious, but more addicted to fraud and falsehood; because under a government of foreign conquerors, whose customs and religion they abhor, and whose residence and interest in the country are temporary. Under the Mahomedans, though a government of conquerors, Hindoos could rise to offices of dignity and emolument, from which they are now entirely excluded. The manners of the Mahomedans were more like their own, they resided permanently, and spent their revenue in the country, and became part of the people. Many circumstances now tend to debase the people: perjury and corruption in the courts will complete their degradation. Purity in the courts will, in some measure, raise the character of the people, and keep alive a sense of honour and justice among them.

8th. Would the natives, in your opinion, confide more in the uprightness of European Judges than in Judges appointed from their own people?

9th. Are you of opinion that the natives may, in respect to integrity and diligence, be trusted with the administration of justice, and how far? or, more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

The natives have an high opinion of European justice; it is almost proverbial. Under a great native Government, which trusted, honoured, and rewarded the natives, men of perhaps as much integrity, and certainly of greater ability than the European Judges, would spring up; but, at present, a high sense of honour and principle is not to be expected. No European, indeed, is so thoroughly acquainted with the language, manners, and economy of the natives, as they themselves, and is so far inferior to any native Judge; but the natives are at present so convinced of the superior integrity and impartiality of the European Judges in general, that they would not be satisfied without an appeal to their authority. The best natives will side with those of their own family, caste, or village. The security of property, the morality of the people, and the respectability of the Government, chiefly depend upon the ability and integrity of the European Judges. Natives may, however, be generally, economically, and usefully employed in the administration of justice. Most civil suits might be referred to a punchayet, but the proceedings of the punchayet should be superintended and confirmed by the European Judges.

10th. Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Each zillah may contain from two hundred and fifty thousand to one million: on an average, perhaps, above five hundred thousand.

11th. What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient, or do you think it would be practicable and expedient to resort to any of the modes practised by the native Governments for maintaining the peace and order of the country?

Under the native Governments, the Zemindars and Poligars, who have been constituted landlords and relieved from the duties of the police, as well as Cavilgars, and all the other revenue and village officers, were charged with the duty of preserving peace and good order and securing offenders. When the judicial authority was separated from the office of Collector, and the zillah Judge appointed a Magistrate, it was considered necessary to give him an establishment of Darogahs and Peons, which is, in fact, new to the country, very expensive, and I am convinced, produce more injury to the people by petty peculations and oppression, than benefit, by preventing offences and securing offenders. This establishment consists of three descriptions: 1st Peons hired

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by these Magistrates, who thought they might be useful, and recommended the measure to the Government, under an idea that it was part of the Bengal system. But hiring a number of badge Peons was not establishing an efficient police. These persons should not have been entertained at all, and should now be dismissed, as soon as it can be done with safety and convenience. 2ndly, Peons whose military services were no longer necessary, and who were converted into police officers; it was necessary to make some provisions for these people, and so far the arrangement was proper; but as they die or can be otherwise disposed of, this part of the establishment should also be reduced. 3dly. Cavilgars and Poligars, not converted into landlords under the permanent settlement, who enjoyed land and allowance for watching, guarding, and frequently for making good stolen property. In many districts these officers have been placed under the new Regulations, and receive pay in lieu of their former allowances, when it can be done with justice, safety, and convenience. The services of these officers might be dispensed with, and their allowances reduced or discontinued. It always appeared to me, and information from every quarter and experience in every district confirmed the opinion, that the security of the people depended upon the village watchers or Talliars, and the co-operation of the people themselves. The people of the village, and particularly the Talliars, know the character, pursuits, and means of livelihood of every person in the village, and may generally learn something of every person passing through it: nothing escapes the Talliars. The system of police should be built on this principle: a Talliar should be appointed to every village where there is none at present, and where their present allowance is too small for their support it should be increased. The families have become exinct in many villages, and their lands and fees discontinued or usurped. The head inhabitants, Curnums, and people in general, should be compelled by law to give information and secure all offenders when they are able. A few Cutwals and badge Peons are necessary in the towns and on the great roads, chiefly to provide supplies for troops and travellers, and prevent disputes with the village people. It will have been observed from the records from Madras, that much information had been obtained, and some progress made before the end of 1813, towards reforming the police upon those principles. The successful arrangement lately adopted in the Coimbatore country, where the people, under the direction of the Collector, voluntarily undertook the duties of the police, shew the practicability and efficiency of this system. The offences most common in India are gang-robbery, chiefly on the frontiers, by bands of banditti: the country people must give the information, and sepoys, if necessary, be sent to take them. Robberies committed by thieving castes, who wander from one village to another, and generally pay some head-man in the village to remain unmolested; murders committed from jealousy, and child murder: the people of the village may prevent or apprehend the perpetrators of these offences.

12th. Can you state what the limits and superficial contents were of the districts in which you acted?

The Ceded Districts, at first divided into three, since into two zillahs, contain about 29,000 square miles, about the extent of Scotland, but more populous: these are now the largest, and perhaps most populous zillahs on the coast. I cannot speak with precision of the extent of other zillahs in which I have acted.

13th. Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit, and submit it to the decision of the punchayet? or has the punchayet at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

I have observed that many attempts have been made, generally without success, to have suits settled by arbitration. A Regulation, prescribing the rules and forms under which suits are to be referred to arbitration, will be found in the code of Regulations.

(Signed) W. THACKERAY.

ANSWERS TO COURT'S QUERIES.

COLONEL A. WALKER.

Query 1.

What is your opinion of the fitness, the efficiency, and the general effects of the system of Judicial administration established at Bombay and the provinces depending on it?

Answer.

It is impossible to enter upon this subject without expressing a deep sense of the noble and benevolent principles by which the Company has been guided, in the treatment of its Indian subjects. Never was any Government actuated by purer and more exalted motives. Its object has been to put a stop to those arbitrary and oppressive proceedings which prevailed in the native judicatures; to extend to our Eastern possessions the benefits of a system of jurisprudence, which should respect the religion and prejudices of the people, and give a perfect security to their persons and property. The object, in fine, is to shield the weak against the oppression of the strong, and to render impartial justice to all. Many of the Regulations adopted are well calculated to fulfil those important ends. Yet such is the infirmity of human nature, that the best laws, unless carefully adapted to the genius and character of those for whom they are destined, will fail in producing the intended effect. It is an observation as old as the days of Solon, that nations must receive not the best laws, but the best of which they are capable. Sir William Jones, whose local and professional knowledge so well qualified him to decide, has particularly applied this principle to the jurisprudence of India. In his preface to the Institutes of Menu he observes, "that laws are of no avail without manners; or in other "terms, that the best legislative provisions would have no beneficial effect "even at first, and none at all in a short course of time, unless they were con- "genial to the disposition and habits, to the religious prejudices, and approved "immemorial usages, of the people for whom they were enacted."

These principles will be found, in a peculiar degree, applicable to India. Not only are the character and political circumstances of those nations entirely different from ours, but the different tribes which inherit this extensive country differ almost as completely from each other. It is perhaps, therefore, rather a little anomalous, to apply any one system of jurisprudence, without distinction, to so many nations of different habits, and living in dissimilar states of society and civilization.

Different stages of society require a very different mode of government; but without regarding the vast difference in the progress of society, the same individual system, with uniform powers, has been extended throughout our territories in India. The difference between the industrious, peaceful, and manufacturing inhabitants of Bengal, the Nair of Malabar, the Polygar of the Carnatic, and the turbulent Grassia of Guzerat, is very great. What one would probably view as the means of protection, the other might conceive as oppressive and degrading. These remarks are not meant to detract from the general merits of the system, but to point out the causes of those wars and insurrections which have cost so much blood and treasure wherever it has been attempted to introduce our judicial regulations among the insubordinate and uncivilized tribes of India. These people have acknowledged the superiority of the Company's Government; they have allowed us to collect the revenues of their country; but violent insurrections and obstinate wars have been the consequence of an attempt to impose upon them our judicial administration. This part of their ancient system seems to have been dearer to them than their property and independence. The superiority of our courts would only be established among those people by force of arms; but can we believe this to be

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be a secure or durable basis, or one on which the administration of justice ought to rest? Would it not have been better to have introduced our improvements, by seizing on favourable opportunities, and gradually following the progress of property and of society?

Justice is administered on the island of Bombay, partly according to the English laws, and partly according to the institutions of the Hindoos and Mahomedans. The whole of the inhabitants of the island, of whatever religion or profession, are subject to the jurisdiction of the Recorder's court. The island of Salsette, the city of Surat, and the territories which have been lately acquired in Guzerat, comprise all the possessions depending on Bombay that are worth mentioning. The Company's courts of justice have been established over those, and every provision seems to have been enacted for the security of the persons and property of the natives. Their religion, usages, and prejudices, did not permit them to be governed by English laws: it has therefore been necessary to preserve their own laws, which are administered to them generally with great impartiality and justice.

Query 2.

Do you conceive that any system of ancient Hindoo institution could now, either in whole, or in part, be with advantage substituted for the system introduced by the British Government?

Answer.

As the population of India consists not only of Hindoos, but of a great proportion of Mahomedans, it is necessary that the British system of legislation should embrace the institutions of both. It is, in fact, founded on the principle that every native subject shall be tried by his own laws; and we should only wish, by a system of moderation and justice, to convince them that they are happier under our Government than any other. The inhabitants of every country, and especially the Hindoos, have a strong attachment in favour of their ancient and known usages. Any attempt, however, to introduce a change in the present system of the British Government, even where it may be in favour of the original institutions of the country, ought to bear a reference to the political state of the society. A great part of India has been for so many centuries subject to foreign dynasties, that the customs of the Hindoos and those of the conquerors are frequently blended so closely, as to be confounded together. This particularly is the case, wherever the Mussulman Government has been long established. In this situation the Company's system, which embraces equally the Mahomedan and the Hindoo law, is probably the best that could be devised. There are other nations, however, who have never been, or but partially subdued, for whom some modifications may be necessary; although it would be very difficult to say what might, with advantage, be substituted or altered, so as to embrace more completely their condition. The very great looseness of the moral principle among some of these wild and uncivilized tribes, must render it peculiarly difficult to legislate for them; and it becomes a question whether they are not much fitter objects of police than of legislation. Under this description may be included the tribes of Khatis, Kulis, Bubrias, Meers, Jhuts, Meanahs, and Grassias of Guzerat. This has arisen, in a great measure, from the absence of a regular Government, from the constant dissentions and revolutions that have distracted the country, and which have forced the weak and defenceless to have recourse to treachery and falsehood for security.

Query 3.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institutions at Bombay; particularly the system of village courts and decision by punchayet?

Answer.

All over India remains of Hindoo judicial institutions are visible, and of course in the western parts. Whatever may be the abstract merits of the system, it appears to have taken the strongest hold of the minds of this people. Whenever they are left to themselves, they return to their own usages, which have commonly the character of simplicity and a bias to popular feelings. Their village system appears to be an epitome of Hindoo Government Every want of the society is provided for: the expense of the police and mechanics is defrayed by grants of land: but the administration of justice is gratuitous, and performed by assemblies of the community. These form what is called the

the punchayet. It is their interest that their fellows should receive justice, which they administer to each other; and this is the principle on which the judicial system of every rude age is founded. This is the origin equally of our jury and of the punchayets. A punchayet, in fact, closely resembles an English jury. It is the cheapest, and a convenient contrivance, for redressing wrongs or of maintaining rights. It is not a sitting court; but temporary, like a jury. The case is decided by a majority of voices, and the court consists of three, five, seven, or nine members. The members are selected and chosen by the parties. It may, however, in certain circumstances be summoned, and the members nominated by the Government; and then the court is composed of the soucars, or the most respectable men of the place. Without this interference of the Government, the principal men might decline the troublesome and disagreeable office of settling private disputes. Even when this happens, the litigant party name commonly two, or any equal number, and the Government the third. If practicable, the members of the court are to be appointed by mutual agreement. When it is a dispute of importance, the parties generally apply to the Government for liberty to assemble a punchayet, and the proceedings are not unfrequently submitted to that superior authority. If the intricacy or importance of the case requires it, the proceedings are committed to writing. The parties are bound to abide by the arbitration of the court, and the members are sworn to decide impartially, or assemble under the solemnity of an oath, or such religious rites as they hold sacred. When the proceedings are closed, in certain cases they are laid before the Rajah, or his minister, or some particular officer who is appointed for the purpose: the award is then confirmed, or the case is farther heard; but the decision of the punchayet is customarily final. In villages and remote parts of the country, the process is more simple. The punchayet is assembled with the sanction of the local authority of the district or of the village. The parties choose each an equal number of members, and the odd one is named by the village or the local authority. If the subject of litigation was between a Mussulman and a Hindoo, each party would choose two arbitrators: most likely each would select from his own caste, but this is optional, and the Government would appoint a fifth. The decision of the punchayet would be guided by the religion of the defendant: the laws of the Koran would be consulted in determining the case of a Mahomedan; those of the shasters of a Hindoo.

A court of this easy access is more particularly necessary in a country, where the people have so great a difference of religion, and where a variety of little disputes are continually arising.

It sometimes happens that the Aumeen Patells, the Dessoys, and the most respectable inhabitants of a pergunnah, are appointed to form a permanent punchayet, and in such cases become fixed courts of justice. It is to be understood that this only takes place under the native Governments. If those men make a bad use of their power or violate any of the rules, they are held responsible; and public opinion is often, even under the native states of India, expressed loudly enough to be heard and to produce its effect.

In village disputes about rights or property, which are frequent in India, and which are prosecuted by the whole community, the punchayet consists of members appointed by the two litigant villages and the mediation of a third friendly or neutral village. The court of punchayet is almost every where known and resorted to by the natives of every class. It is still, although in a mitigated shape, established on the island of Bombay, where it has survived every other Hindoo judicial institution: a strong proof of its value in the opinion of the inhabitants, and of the confidence with which they look up to its decisions. Most of the castes in Bombay have a permanent punchayet, who decide its petty disputes, and make bye-laws for its direction or government. The extent of the interference of those punchayets in the concerns of their respective castes, to which their interference is limited, is not exactly, I believe, known, as they are afraid of exciting the jealousy of our Government, or of attracting the notice of our regular courts, and manage their affairs with great caution and secresy; but there is reason to think that they prevent a multitude of law-suits between each other, and are a considerable check on the prevalent spirit of litigation among the natives of India.

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Besides these simple courts, the native states have offices of magistracy, which were probably instituted at a more advanced period of their society. The Hindoos have a number of such offices, whose names and functions are derived from the Sanscrit language and their ancient institutions. The Neyadesh is an officer of justice still in use among the Mahrattahs, who may be compared with our justice of the peace. Neya, justice; desh, the country administrator. Again: adhekar, control; adhekaree, controller. In Guzerat, the Patells, the Dessoys, &c. are the Adhekaries. In the Deccan, the Deshmooks, the Desh-pandia, and the Koolkurnee, are the Adhekaries.

These examples will shew that the Hindoos are not deficient in terms, and they are all extremely appropriate and significant. It will always be advantageous to adopt the forms of the country, and what the people were accustomed to respect and venerate. An agency congenial to the manners, habits, and prejudices of the country, will have a better chance of producing a good effect, than one derived from a foreign language or unknown usages. To this short list of names may be added, the Sirlabas, Kamuvisdars, Dessoys, Deshmookes, and Patells, in the provinces and pergunnahs of native Governments, who exercise respectively their judicial duties, but intermixed with other duties, in due subordination to each other. In the cities and large towns the Kutwalls and Kudis are regular officers of magistracy and police.

Some of the offices which have been above enumerated are hereditary in particular families, most of whom have now fallen into decay, but are still allowed to enjoy a nominal dignity, and other persons are appointed to perform the duty. All these institutions, indeed, have decayed or declined during the relaxation of Government and the disorders which have prevailed in consequence. It may be remarked, that the Hindoos generally testify a considerable regard for the feelings and institutions of their Mahomedan subjects. The Kazies and other officers peculiar to them have been continued where the Mahrattahs have obtained an ascendancy, and still exercise some portion of their functions. The same people have uniformly confirmed the grants and immunities, and the charitable donations of the Emperors of Delhi, in the countries which they have conquered.

The Hindoos, as well as the Mahomedans, have men regularly educated to the law, whose profession it is to expound and apply it.

These are very cursory notices of practices with which the natives of India are yet familiar, and of modes of administering justice to which they remain attached. The punchayet bears a close semblance to one of the best institutions of our own country, which is at once suited to the interests and prejudices of the people, which is calculated to prevent a multitude of law-suits, to diminish the expense of administering justice, and finally to ease the Magistrate of many small but intricate causes.

Query 4.

If this system introduced by the British Government is in your opinion to be preferred, do you conceive it to be susceptible of any ameliorations, that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings and abridge the expense of suitors; and, in general, what in your opinion are the best means of remedying any existing defects in the system?

Answer.

Perfection is not the lot of humanity, and it is no reproach to any system to say that it is capable of amendment. The legal code of our own country, with the accumulated improvements and experience of so many centuries, is still imperfect: but the nearer that any system of jurisprudence corresponds with the state of society and of manners it must approach the nearer to that state which would increase its utility and efficacy. Every arrangement will be found to fall short of its intended effect, unless the practice of the country is observed, which custom and habit have so firmly interwoven with the notions of the natives. There is no country, perhaps, in the world, where those artificial distinctions which raise one class of men above another, are established in such force as in India. Besides those of caste, which are enforced with such extreme severity, there are other distinctions, perhaps, as strongly marked. The privileges attached to rank, office,

office, particular families, and the possession of wealth, are supposed to shield men against any rude attacks from those who are in these respects their inferiors. Some regard has been paid to these prejudices, by exempting men of rank and property from the necessity of appearing in person, and allowing them to defend themselves by their Vakeels or attornies. The suit, however, must be received from the meanest of the inhabitants against the highest; and even though the complaint should appear frivolous and malicious, there are few Judges who would venture to reject it. All this is, no doubt, right in the abstract, and strictly conformable to the principles of natural equity; yet it may be doubted how far the minds of that people are prepared for so great an innovation, among whom different modes of life prevail, and whose civil and religious prejudices and laws have conferred certain immunities and privileges upon caste and situation. Certain it is, that it has proved extremely harassing to the more respectable classes of Indian society; at the same time, it is difficult to apply a remedy without entrusting a great discretionary power with the Judge, or infringing the general principles of justice. In Britain it is seldom that a person in the lower ranks of life raises a suit against one in an elevated station, without very evident justice on his side; but in India, where the native men of rank have now lost all political consideration, the obstacles are much less formidable, and the vindictive and litigious temper of the lower orders leads them into accusations and complaints, for the mere purpose of giving trouble to their superiors.

The decision of causes might, in many instances, be accelerated by verbal hearing, as they are retarded by the long written records of every trifling circumstance, and often in two or three languages. A simple register would very often be sufficient, and save a great deal of time and attendance. The abuse of such a latitude might be guarded against by proper regulations. It would also greatly tend to render the administration of justice more easy to the natives of India, were the court to be held on the spot, either where the crime was committed, or where the property in question was situated, and to investigate the pretensions of the parties by ocular inspection or survey. In all intricate and important cases this method would be attended with great advantage to justice, and the trouble or expense attending it would be amply repaid by the ease and convenience of the people. The trouble would not be so great as may be thought, as it would only be in particular cases that a recourse to this suggestion would be requisite. The hardship of bringing evidences from a great distance is felt very much: they are removed from their families, and their usual occupations must be neglected, during a tedious and irksome attendance on the court.

With regard to the means that would render the liberty of access of the natives to justice more easy, that must depend as much on the disposition of the persons who preside at our courts, as on their constitution. The expense, however, would be diminished by a recourse to the punchayet, and their access to justice facilitated by employing a proportion of the natives in its administration, properly disposed and dispersed through the interior of the country. Both objects would be promoted by disencumbering the proceedings of their present tedious forms of process, and meeting, as far as possible, the wants of the people by administering justice upon the spot. In the distant or scattered pergunnahs, an inferior cutchery and a single carcoon would be sufficient to receive, register, and transmit petitions to the Judge, if he should not be allowed to decide. This arrangement would, at least, enable the Ryot to pursue his cultivation, until he was summoned for an actual hearing, instead of wasting his time in a fruitless expectation or a tedious attendance.

Query 5.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer.

The excellence of the British judicial system has been often acknowledged and recorded with the fervour of national pride. The system has been dictated by the purest philanthophy, and is administered with the most honourable and scrupulous integrity. Justice is, in fact, administered with exactness to all ranks of subjects; and allowing for the weakness of human nature, with strict and uniform impartiality. The disadvantages of the system may be principally

principally ascribed to the great difference of manners, and the unfavourable situation of strangers, in administering justice to a foreign people. This is a great disadvantage which never can be effectually removed; but might be softened, by admitting the natives to a share in the administration. While the natives fully acknowledge the benevolent intentions that have led to the establishment of the provincial courts, and are sensible of the security they have conferred on individuals and property, they complain of the tediousness of their processes, and the length of time that must pass before a suit can be determined. I have heard it mentioned as an unpleasant circumstance by the natives, and of course as a disadvantage, that the magisterial seat was sometimes filled by young men, who had scarcely attained the age of manhood. The gravity and decorum of the manners of the East are apt to revolt against this arrangement, which acknowledged talents and abilities are not always able to compensate. The ardor of mind and vehement zeal, which are natural to that age, have sometimes produced a rash and precipitate conduct, attended by fatal consequences to the public tranquillity. But the greatest defect of the present system, perhaps, is the employment of strangers, to the total exclusion of the natives of the country.

Query 6.

If you are of opinion that this system should be continued, in whole or in its chief parts, could the expense of it be diminished, either by reducing the number of courts, or the scale of establishment (particularly in native servants and their allowances) for those courts?

Answer.

This is a question of great intricacy and delicacy, but of great importance to the Company. When establishments have been once created, they can be reduced with great difficulty, and sometimes not without danger. There are many passions excited to maintain them often wholly independent of self-interest. A variety of feelings become active in upholding an expenditure which has been laid on: sometimes those of feeling or friendship for the people who are to be discharged; occasionally petty objects of pride or of imaginary consequence, which might be injured by the reduction; and not unfrequently a mistaken apprehension for the public service. It is these passions and feelings that have prevented, and will continue to prevent, any great reduction of expense in India. The most laudable anxiety and the most unwearied industry, have marked the economical exertions of the Government; but how insignificant and inadequate their endeavours have proved to meet the exigency! In fine, any material retrenchment of expense in India must be made under the direct authority and positive command of the Court of Directors.

I apprehend that the zillah courts under the Government of Bombay could not be reduced, consistently with a due administration of justice to the Company's subjects, unless they were replaced by native courts; or if it should be thought proper to extend the powers of the zillah Judges, it is probable that some reduction might be effected in the Court of Circuit. Say that it was reduced to one member, who with the Register and the zillah Magistrate, might compose a court. By a simple arrangement the Judge and Magistrate on Salsette might be dispensed with, by directing one of the Members of Council to decide the few causes of any importance that occur there, and those of a trivial nature might be entrusted to the Register. The two Members of Government might take this duty by turns, and their time would not be much occupied. The vicinity of Salsette to the presidency, the nature of its population, which contains a great number of Portuguese, and its extent, which scarcely amounts to fifty thousand souls, would easily admit of an arrangement for administering its concerns immediately from Bombay.

The scale of native establishments of almost every description, I believe, might be considerably reduced, without injury to the public service; but not the individual allowances, at least of those natives who have any shadow of trust. Those of an inferior or menial capacity are probably overpaid; but the smallness of the salaries of the natives who hold any office, can only have the effect of filling the service with worthless or useless characters. It is better to have a few able, efficient, and respectable men, well paid, than many of a contrary character at small wages. It is impossible to state the reduction which might be effected in any of the native establishments without a minute review of their extent;

extent; but if they could, one with another, be reduced to four or five per cent., this would produce a considerable saving, and I think most of those establishments would bear this reduction. The operation of this rule should not be confined to the judicial department. The amount of the Company's revenue in India may be estimated at sixteen millions per annum. Suppose that a per centage on this amount could be raised, partly by diminishing its expense of collection, and partly by new sources of revenue, a very small rate on sixteen millions would produce a large sum. At two and a half it would yield £400,000; at three per cent., £480,000; and at five per cent., £800,000.

Query 7.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Answer.

On this question it is not easy to form an opinion in every way satisfactory. Laws must be judged of by their consequences as well as their nature. I have met with flattering instances and warm expressions of respect and regard for the Company's institutions, from natives who were not subject to them, and whose judgment was therefore less liable to suspicion. The benevolence and philanthropy of the system received the greatest applause; but they thought the theory good, and not all its consequences. If men were eminently pure, if they would be satisfied with a strict administration of justice, the perfect security of their persons and property, without desiring any political consideration in society, the impressions in favour of our system would be permanent and durable. But considering the peculiar habits and prejudices of this people, the uniform consistence of their character, manifested in a series of centuries, we must suppress any confident expectation that their gratitude or attachment would last beyond the period, if it should ever come, when we may have to contend with a superior power.

Query 8.

Would the natives, in your opinion, confide more in the uprightness of European Judges, than in Judges appointed from their own people?

Answer.

I have no hesitation in answering this question in the affirmative, when applied to individuals. The confidence of the natives of India in the word even of a European is proverbial, and the venality of a Judge was scarcely ever heard of.

Query 9.

Are you of opinion that the natives may, in respect of integrity and diligence, be trusted with the administration of justice, and how far; or, more particularly, can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that in any part of a judicial system allotted to their execution they should be superintended by Europeans?

Answer.

This question embraces so many considerations, that it is necessary to enter into some detail.

The most prominent feature in the civil government of the Company is the almost entire exclusion of native agency. The offices held by natives are only those of the lowest description, such as could not be the object of ambition to any European; and the salary attached to these appointments is such as barely affords to themselves and families the means of subsistence. To natives of rank and liberal education no temptation is held out, which can induce them to engage in the service of the Company. Not only are the emoluments offered scanty, but the want of confidence reposed in them, the general light in which they are received, cannot fail to inspire them with insurmountable disgust. Hence none but adventurers of a doubtful character are seen crowding the Company's settlements; and a general suspicion, if not disgrace, is attached to native agency. A very little consideration will be sufficient to shew, that no circumstance tends more strongly than this to impair the efficiency of our Indian government, and even to render its duration precarious. The first great objection to European agency is, that it cannot be employed to the extent which is necessary for governing well so extensive a country. This could be effected only by a system of colonization. But under the present

system a few hundred Europeans, scattered over a territory surpassing in extent the largest kingdom in Europe, can never duly administer to the wants of so numerous a people. We boast, with reason, of having transferred the principles of our own just and equal laws to our new subjects; but small will be the benefit, unless there be a sufficient number of persons qualified to administer them.

It is, moreover, a consideration of the highest importance to the Company, that the expense, even of this imperfect European agency, exceeds what its finances are able to afford. No European comes to establish himself in the country; nor does he, indeed, receive any encouragement so to do. He comes merely for a certain term of years, as short as possible, during which he hopes to acquire a fortune, with which he may return, and enjoy in his own country. He expects therefore, and justly, to receive such an income as will not only allow him to live after the manner of the country, but will leave a surplus to be the foundation of the fortune which he intends to save. The native, on the contrary, who looks for nothing beyond a competence in his native land, will exchange his services for a much more moderate compensation. A liberal intermixture, therefore, of native with European agency, would enable the Company to effect a very considerable saving in the expenses of administration.

There is another circumstance, which deserves, perhaps, to be still more maturely pondered.

The admission of the natives to offices of honour and profit is the only mode by which they can be effectually conciliated. It is vain to expect, that men will ever be satisfied with merely having their property secured, while all the paths of honourable ambition are shut against them. This mortifying exclusion stifles talents, humbles family pride, and depresses all but the weak and the worthless. By the higher classes of the society it is considered as a severe injustice; but these are the men of influence and consideration in the country, the men by whom the public opinion is formed. So long as this source of hostility remains, the British administration will always be regarded as imposing a yoke. A few, indeed, of the most necessitous of all classes may be driven by want into our service; but even the great mass of this body will secretly consider it as a hardship to have their affairs administered entirely by foreigners, whose language, manners, and religion are strange to them. The question here is not respecting the integrity or the capacity of the judges; but it relates to one of the unerring laws and feelings of human nature. The Romans, whose business was conquest, and who extended their yoke over the greatest part of the civilized world, may be safely taken as guides in the art of holding nations in subjection: that wise people always left a great share of the administration of the countries they subdued in the hands of the natives.

In addition to these considerations of profit and safety, which dictate the measure now recommended, I may add, that it would eminently conduce to the good government of our Eastern settlements. There is a want in India of some link to connect the government and people, which are at present too widely separated. Such a link might be formed by the more intelligent and respectable of the natives, were an intercourse opened between them and the government. Their advice in various affairs relating to their own interests and that of the country, and their ideas of the best mode of managing them, might be found of the utmost value. I hesitate not to say, that the Company would be better informed of the real state of its own territories, did it possess a respectable channel of communication with its subjects. To this is owing, besides other evils, much of the exorbitant expense in which the Company has been involved. I particularly allude to the military contingent expences, by which the funds of India have been dilapidated. This has laid them open not only to imposition from the natives, but from their own servants. At present there is no apparent remedy for this evil, nor any channel through which the Government can acquire the requisite information. They can never collect it from the low and mercenary instruments, of whom alone, in the present state of things, they are able to command the services: they must obtain the confidence of that superior class, possessed of observation and cultivated minds, who will alone be able to explain properly the views and situation of their countrymen.

trymen. It may be objected to this system, that European influence might thus be diminished, and that the natives might be tempted to make a bad use of the power and consideration which they would acquire. It may be objected, that it would raise up a dangerous rivalship, and that it would impair the influence of Government; but I conceive that the contrary would rather be the case. It must always be remembered, that the real foundation of our power, and of every government foreign to the country, must be force. No people ever submitted that had the power of successful resistance. Good policy, however, will direct, that Government should disguise, as much as possible, the principle of its support. The most judicious and the most equitable expedient is to permit the inhabitants to participate in the civil government.

We may again appeal to the Romans, and perhaps no cause contributed more to the tranquillity and subordination of the multitude of nations under their dominion. So long as our army preserves its vigour and discipline, no native, invested merely with civil authority, would form the design of overturning the Government. Without confidence, his hostility would at least be as active. But it would be much more likely, that the admission of natives to a moderate share in the administration of the country would present the most effectual means of deterring them from forming such hostile designs, and of checking them if formed by others. The natives might be expected to become more attached to a Government, from which they received not only protection, but the more envied boon of confidence and distinction. Those who are promoted to office will feel the necessity, as well as the inclination, of making the Government of the Company respected by their countrymen, and they will understand the best means of securing that object. If, then, a due proportion of magistrates and civil officers were taken from among the inhabitants, their local influence and knowledge must of necessity be exerted for the discharge of their offices, and if they were negligent and failed in their duty, they can be displaced and punished; and the Company will at least be able to distinguish on whom they can place confidence. At present, there is no organ by which the Government can communicate with the people, can act upon their minds, or claim their co-operation in any public measure. This would no longer be the case, did it possess a number of intelligent and respectable natives, who were attached to its interests.

Another argument, often urged against the employment of natives, is derived from the prejudice so prevalent, both in India and this country, which represents the inhabitants as unfit for the discharge of any important trust, from their dishonesty and want of probity, which is alleged to be inherent in them. There is scarcely any general proposition of this nature that is entirely true. With respect to this indiscriminate reproach on the character of the inhabitants of India, we may perceive that it is inapplicable, when we consider the circumstances of that country. Its inhabitants are composed, not of one single race, but of a number of different people, who, by successive conquest and colonization, came thither to take up their abode. These, with some general features of resemblance, exhibit distinctions of character, as strongly marked as those which are perceived between the different nations of Europe. The natives, in fact, are of the same nature with ourselves; they have the same notions of right and wrong; and if they do not always act up to those fundamental tenets, the failure is more to be ascribed to the force of temptation and the absence of restraint, than to any innate want of principle. It is unfair to determine that to proceed from innate principles, which may only be the effect of a bad education, or the contagion of example. The Europeans, in their first intercourse with India, were unrestrained, unless by the feelings of their own minds. When the wealth of India spread out its temptations, the consequences were such as human nature will too uniformly present, when placed in similar circumstances. I should, however, be extremely sorry that any instances of this description, the irregularities of an unfavourable period, should warrant a general inference to be drawn against Europeans. The people of India are now better informed of our character. They see the Company's laws and authority, exerted in earnest against peculation. With the advantage of this experience they are now convinced that the Government of the Company will not connive at any deviation from rectitude, and this conviction will work its effect on their own conduct. It will be, therefore, more

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just and more conformable to human experience, were we to suppose the natives of India as capable of improvement as those of any other country. Those talents and principles are sure to become objects of attention and cultivation, that are found either useful, or conducive to honours and emolument. The strength of these principles will improve, as our intercourse and confidence increase with the people. In support of this train of argument, it would not be difficult to produce examples of integrity from among the natives of India, which would do honour to any people; and there is no source of deception, against which it would behove the Company to guard, than the reports which they receive concerning the capacities of their native subjects. They are, of course, transmitted through the medium of Europeans holding employments in that country: but they often undervalue the qualifications of the natives from motives of prejudice or interest. There are many, indeed, who would be superior to such motives, and few, perhaps, who would act upon them deliberately. But still the principle is secretly active, and will always have a powerful effect, though perhaps unfelt influence, on men's views and opinions.

I would not, after all, be understood to deny the superiority of European agency, both in respect to probity and efficiency; but it cannot be applied in sufficient number, and the natural rules of policy require that some of the duties of Government should be administered by the natives, by persons actuated by the same prejudices and opinions. Admitting the present system to be the best that India could receive, the finances of the Company cannot possibly admit the employment of European agency, to such an amount as would be required for the wants of such an extensive dominion. The extent of the country, its crowded population, which included but lately independent states, that were dignified with the names of kingdoms and empires, comprizing many large and populous cities, would sufficiently prove the present establishment to be inadequate. It is almost impossible that the most assiduous industry can bestow the requisite attention on the various causes that come forward, even were they only attended with the common difficulties of law proceedings. But the variety of nations and languages; their different codes; of ranks and conditions in society; the political and natural boundaries of each province, more than double the usual labour of administering justice. There is another difficulty peculiar to India: the proceedings of the courts are not only carried on in the vernacular language of the country, but they must also be translated into English, and a great portion of the valuable time of the Magistrate is consumed in preparing reports and dispatches for Government; a duty essential and which cannot be neglected, but it still encroaches on the time which might otherwise be employed in hearing causes. In addition to these obstacles to the prompt exercise of their judicial functions, the Judges in India are not unfrequently entrusted with employments of a different nature. In so extensive a territory, many parts of which are so imperfectly known, it is often necessary to make examinations and inquiries on the spot into many particulars; but as a commission sent for the purpose would be attended with a heavy expense and other inconveniencies, Government avails itself of the tried capacity and local knowledge of the Judge, to devolve upon him these important duties. I have no hesitation in saying that he is probably better qualified than any other person for performing such duties; and I have only mentioned the circumstance, to point out this additional deduction from his time, which is without any interruption insufficient for the due discharge of his regular office. If we examine the records of the Sudder Dewanny and of the Nizamut Adawlut, the effect of the circumstances now stated will be abundantly conspicuous. The number of causes on the file will be found sometimes to amount to thousands, and some zillah Judges have an accumulation of causes which it would require years to decide: yet the imperious call of economy has obliged the Company to reduce these establishments.

The aim of the preceding observations has been to show, that the natives of India may, in respect to integrity, be trusted with the administration of justice, and that some of the civil offices of Government may be confided to them with safety and advantage. It has been attempted to show that they may be made useful instruments in government; that by admitting them to some participation in the administration of the affairs of their own country, a natural link of

of connection would be formed which does not exist at present; and, finally, that this is the only system by which we can hope to convert the natives of India to our opinions and sentiments.

With respect to the diligence of the natives for business, there can be less difficulty in forming a judgment; and, I believe, there is no question of their sufficiency in this respect. Of their talents, and capacity for business, every person must have had many proofs, who has ever transacted any considerable affairs in the country.

The most difficult part of the question, probably, remains to be discussed; for if the policy and justice of admitting the natives to a share of the administration should be admitted, it is still to be determined to what extent it would be prudent and expedient to diffuse their agency. The natives have been so long excluded from every official situation, that a change of policy in their favour must be cautiously adopted. It would not, perhaps, at first be prudent to entrust any particular branch of justice to their exclusive administration; and probably the best effects may be expected by an intermixture of European and native agency. They may sit on the bench with the European Magistrate; they may administer oaths; they may examine evidences and decide causes; but they should be ultimately responsible to the superintendence of Europeans. They should report their proceedings to a European authority, and an appeal from their decisions should be allowed. A variety of local and petty causes, more or less important and intricate, and often difficult to decide, are daily arising, which might be safely left to their cognizance. Much of the judicial business of the country might, in this manner, be transacted at little expense: and by reverting, at the same time, to the village system of administration, the services of the natives would be eminently useful, a multitude of law-suits prevented, interior order and tranquillity maintained. Much, however, remains to be done before this system can be perfected; much to learn, and many prepossessions to remove. In India it would be opposed by the prejudices of some and the interest of others. Men even of fortitude and ability will be found to disrelish a plan which is to place the natives on a footing of equality and confidence: which is to restore them to a part of their natural rights.

In the gross, the religion, the customs, and even the prejudices of the natives are respected; but in their individual intercourse, the tone of Europeans is generally harsh and arrogant. Unfortunately, this is a point less within the controul of Government than any other, and depends greatly on the general habits of society.

Query 10.

Are you acquainted with the general average scale of population within the sphere of one zillah or judicial court?

Answer.

To this question I am unable to reply from memory, with sufficient precision and accuracy, and a loose statement might mislead the Court of Directors; but their records must contain some information on the subject, as the reports to Government frequently mention the state of population, and statistical tables of some districts were prepared by myself and others.

Query 11.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient? or do you think it would be practicable and expedient to resort to any of the modes practised by the native governments for maintaining the peace and order of the country?

Answer.

The effect of the system of the police in India is very irregular: no branch of the administration depends more on the character of the person who conducts it than this. It must, also, however, in no small degree depend on the system itself and its efficiency on the state of society. There are many places where the warrant of a Judge and the interference of the police would be both disregarded, unless supported by a detachment of troops. The Judge, in India, also exercises the office of Magistrate, and the police is under him. In contumacious quarters the military ought to maintain the

 peace

peace of the country and act as police. To this arm and to the Collector, perhaps, the whole police of the country might be advantageously entrusted. By joining this establishment to the Collectors, and investing him with its powers, a considerable reduction might, I dare say, be effected, while it would be the means of strengthening his hands in his own department. The Collector is less obliged by his office to reside at any particular place, and has therefore more the means of personal inspection.

As the prevention of crimes is the great object of laws and humanity, an arrangement to facilitate the apprehension of criminals, and to promote the internal tranquillity of the country, are the objects of the police. I am persuaded that the nearer this approaches to the modes practised by the native governments, it will be more likely to succeed, be more economical in its execution, and more congenial to the people. It is not to be supposed that this is meant to recommend any arbitrary proceedings, or any other but those which justice, honour, and humanity would dictate for the regulation and government of the country.

Query 12.

Can you state what the limits and superficial contents were of the districts in which you acted?

Answer.

I am unable to answer this question with any accuracy, unless by referring to the map and the surveys that were made of the districts of Malabar and Guzerat.

Query 13. (*additional*).

Have the courts of Adawlut, at any time, recommended to parties in a cause to withdraw the suit, and submit it to the decision of the punchayet? Or has the punchayet, at any time, or on any occasion, been recognized by the courts of Adawlut or the English Government?

Answer.

I cannot, at this period of time, charge my recollection with any instance, in which the courts of Adawlut have recommended to parties in a cause to withdraw a suit after it had been instituted, and submit it to the decision of a punchayet; but I have known many instances, both in Malabar and Guzerat, in which, under the sanction and concurrence of the Court, the punchayet has been assembled for the purpose of deciding on a subject of litigation. I have known instances in which the punchayet was recognized by the English Government as well as by the courts of Adawlut; I have also seen instances wherein the Judge recommended to the parties, in the first instance, to have recourse to this mode of settling their differences: and I have heard persons invested with this authority express their sentiments in favour of the practice; but it is proper to observe that I have known others averse to it, and appear unwilling that those within their jurisdiction should appeal to its decision.

I have thus, with a freedom, which the intention will excuse, but to the best of my judgment, however inadequate to the importance of the subject, answered the queries which the Honourable Court of Directors have been pleased to transmit for my opinion. I have thought it my duty not simply to deliver a flattering picture; but if I have praised with restriction, it has been under the impression of complying with the wishes of the Court, as it is only by pointing out the errors or defects of the present system, that they can pursue their benevolent intention of improving the condition of the people subject to their authority.

When the different departments of the service are properly inspected, and every transaction is thoroughly understood, the great object of reform will be attained.

When commerce and industry, under a mild administration of justice, shall have had time to extend their happy influence, the barbarous manners and customs with which some of the Indian tribes are so justly reproached will gradually disappear. They will yield to reason and persuasion, but never to force, whether it be the force of the sword, or of laws. The Company's Government has acquired an uncommon, almost an unexampled degree of vigour and prosperity. The expulsion of the French, the overthrow of Tippoo, and

the subsidiary engagements with the rest of the native states, have left us without a rival, and there is no power whatever in India who can be in the least formidable to the British nation. As the dominions subdued or ceded to the Company must now cease to be exposed to the calamities of war, their population and wealth will be daily increasing. We may anticipate a result of many years of peace, which is the convenient and true time for prosecuting the great design of cementing our Eastern empire, by some natural tie with this country, and the fairest connexion will be the surest.

Answers to Court's Queries. Colonel Walker.

A. WALKER.

Bowland, 1813.

J. A. GRANT, ESQ.

Answers to Court's Queries. J. A. Grant, Esq.

Query 1.

What is your opinion of the fitness, the efficiency, and the general effects of the system of judicial administration established at Bombay and the provinces depending on it?

Answer.

The present judicial system was first introduced under that presidency in the year 1799, by the establishment of a court of justice in Salsette, with jurisdiction over that and the other islands in the immediate vicinity of Bombay; and, on the occasion of the transfer of the Government of Surat by the Nawaub to the Company, the same system was, in 1800, extended to that city; and again, in 1805, to the Ceded Districts in the several divisions of Guzerat.

Thus three additional zillahs, or local jurisdictions were formed: the first comprehending the populous city of Surat and the various districts which are dependent on it; the second, the town of Broach with its valuable purgunnah, and the contiguous territory lying between the rivers Kim and Nerbuddah; and the last, the town and district of Kairah, with the extensive cessions from the Guicowar to the northward of the river Myhee, and those from the Paishwa, which are situated to the westward of the gulph of Cambay.

For the guidance of the zillah courts, Regulations have, from time to time, been enacted, in general conformity to the provisions of the Bengal code; and, as a necessary part of the new system, a court of appeal in civil cases, and of circuit for the trial of criminal offences, was also established in Guzerat: the decisions of which, in the former capacity, are in prescribed cases subject to review by the Sudder Adawlut at the Presidency, and in the latter, or criminal branch of its duties, when prisoners may be sentenced to suffer death or imprisonment for life, to the final judgment of the superior tribunal, which, as well as the Sudder Adawlut, is composed of the Governor and of the Members of the Council of Bombay.

In the commencement of our administration, the peace and the order of the newly-acquired territories suffered serious interruption from the incendiary excesses and other lawless practices of the Grassiahs, Coolies, and Bheels; tribes which, while they, but more especially the two latter, are regarded as the Aborigines of Guzerat, have for ages been noted for daring outrages and disregard of authority. But to remedy these disorders, the Government of Bombay made it an early instruction to the Court of Circuit and to the Zillah Courts to consider of the most applicable means of enlightening the minds, correcting the pernicious habits, and ultimately reforming the manners of those more unruly classes of society.

The interesting objects of that instruction did not fail to engage the zealous co-operation of the local authorities, and various expedients were in consequence suggested; but the Government never having extended to them a formal sanction, it is thence to be inferred that it was deemed best to trust to the gradual operation of equal laws, under a wise and vigilant administration, to effect the desired reform. The existing code, which is founded on the laws of the natives tempered by British policy and humanity, seemed indeed to promise all that any system of jurisprudence could accomplish towards so salutary an end.

Nor, on general grounds, did it appear to the Court of Circuit to be advisable to propose the enactment of prohibitory or exclusive laws against any description

cription of people, as a mean of correcting evils which might, in part at least, be traced to the defects of former Governments. The tendency of such enactments must have been to perpetuate distinctions, and to separate those rude tribes from the rest of the society; while, by substituting a better order of things, and affording to all the experience of a just treatment, a hope might be entertained, that the character and habits of our new subjects would be insensibly altered and amended.

This hope was not disappointed. At the date of my departure from India, the new system had been in operation for nearly five years, and was found to have contributed greatly to meliorate the condition of the people. From the progress that had been made in the suppression of crimes, by which the peace of society had been too often disturbed, the general security was much promoted, and a growing confidence in our institutions encouraged. Nor was this improved state of things confined to the middle and southern districts. In the zillah of Kairah, where, from the too great extent of it and the more turbulent dispositions of the inhabitants, the obstacles to civilization are very numerous, the same happy results were in train of being gradually attained.

The jurisdiction of the courts, civil as well as criminal, had indeed been introduced and established, with an anxious aim to convince the well-disposed part of the people of the protection and happiness derivable from an impartial administration of justice; and it was pleasing to observe, that they seemed not insensible to the comforts resulting from order and obedience to the laws: nor can there exist a doubt, that by perseverance in this conduct, the habit or privilege which the more hardened and refractory had exercised of redressing their own wrongs, will in due time be wholly overcome.

On these grounds, I beg to state it as my opinion, that the present system of judicial administration has hitherto operated most beneficially throughout the Company's possessions in Guzerat, as proved by their increased and growing prosperity, and by the more orderly habits of the people; and that it promises, ultimately, under proper facilities, to perfect such a reform, as cannot fail essentially to conduce to the general quiet and prosperity of the country, and to the comfort and happiness of the inhabitants.

Query 2.

Do you conceive, that any system of ancient Hindoo institution could now, either in whole or in part, be with advantage substituted for the system, or any part of the system, introduced by the British Government?

Answer.

It does not occur to me that such a change could, with any prospect of permanent advantage, be introduced. Under the existing system, the natives, whether Hindoos or Mahomedans, have the benefit of their own laws; all causes of a civil nature being, under the Presidency of Bombay, required to be decided, as far as may depend on the point of law, by that of the defendant, and so also in criminal cases; besides which, the Regulations recognize local usages, and what is termed "the customary rule of the country;" as proper to be admitted, when found applicable and consistent with the principles of equity, in exclusion of the written codes of Hindoo and Mahomedan law, such local usages and unwritten common law being regarded, as more nearly comprehending the rules to which the natives have been most habituated.

Query 3.

Can you state any particulars of the remains yet subsisting of ancient Hindoo judicial institution in Bombay, particularly the system of village courts and decision by punchayet?

Answer.

I am not aware that any remains can now be traced in Bombay of ancient Hindoo judicial institution. There are no village courts, unless the punchayets be so regarded. These still exist, and direct their attention chiefly, I believe, to matters of discipline and ceremonial observance, connected with the customs and usages of their several sects. They exercise no judicial authority. But on this part of the subject, such remarks as occur will be offered in answer to a subsequent query.

Query 4.

Query 4.

If the system introduced by the British Government is, in your opinion, to be preferred, do you conceive it to be susceptible of any meliorations, that would accelerate the decision of causes, would render the access of the natives to justice more easy, would simplify the proceedings, and abridge the expense of suitors; and in general, what in your opinion, are the best means of remedying any existing defects in the system?

Answer.

The present system provides for the trial and decision of causes, according to a prescribed scale of jurisdiction, by the zillah Judges, by their Registers, by the assistants of the Registers, by arbitrators, and by native Commissioners; the number of the latter being required to be such, where local circumstances will admit of it, that the court may not be under the necessity of obliging a defendant to proceed to a greater distance than from seven to eight miles to answer any suit, cognizable by a Commissioner, that may be instituted against him.

It is however true, that while I remained in India, the jurisdiction of the native Commissioners had not been extended beyond the trial of suits at the zillah stations; the immaturity, then, of this part of the system seeming to discourage the delegation of such power to native referees at a distance.

The decision of causes would, no doubt, admit of being expedited by some curtailment of the prescribed pleadings. Thus, if instead of the plaint, answer, reply, and rejoinder, which are filed in all civil actions, a plaint and answer were made to comprise the merits of every suit, as far as usually developed before examination, by the Judge, of the truth of the matter at issue, with the remedy allowed by the Regulations, in necessary cases, of a supplemental plaint and supplemental answer, it is submitted, that this abridged process would not only save much of the time and attendance of parties, but simplify the proceedings, and by bringing the merits of litigated points more closely into view, materially forward the administration of justice.

As to the expense of suitors, it may be observed, that for two years after the establishment of the civil court of Surat, individuals were subjected to no other charge than a commission of five per cent. on the institution of suits. On exhibits, papers, and petitions presented to the court, no fees were levied; but of this indulgence the consequence was an undue encouragement to litigation. Groundless suits were instituted, and the hearing of causes protracted by the filing of superfluous exhibits or the summoning of unnecessary witnesses; so that the Judge could not determine suits so expeditiously as was necessary to prevent the natives from instituting vexatious claims, or from refusing to satisfy just demands.

For these reasons, it was determined to authorize the levying of fees, not only on the institution but also on the trial of suits, as being considered the best mode of checking this abuse of the ready means afforded to individuals of profiting by the exercise of the laws, without obstructing the bringing forward of just claims; and rules were accordingly enacted for that purpose, which have been productive of the desired effect.

In order, however, that indigent persons might not be debarred from the recovery of their rights, from not being able to pay the established fees, another humane Regulation was added, by which persons of that description are admitted to sue in the courts as paupers; thus, on the whole, rendering the access of the natives to justice, as easy as, from the very extensive jurisdiction of some of the civil courts, would seem to be practicable.

As a measure promising much local benefit, I would take the liberty of proposing the establishment of another court of justice and collectorship for the Ceded Territories, which are situated to the westward of the Gulph of Cambay. The jurisdiction of the new court might be made to extend over the districts of Dundoolra, Canpoor, Gogo, Dollerah, and such part of the district of Dholka as could with advantage be annexed to it. A reference to the map will shew, that those western districts are too distant to be conveniently included within the zillah of Kairah; nor can a salutary change in the habits and sentiments of the very singular people of that quarter be effected, or their condition greatly improved, without the direct superintendence of European agents. It is,

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is, indeed, to the result of a steady administration of justice, so conducted, that Government must look for the annihilation of discordant authority, and for the gradual introduction of a system of regularity, order, and quiet, into those more remote dependencies of the presidency of Bombay.

It may be regarded as some recommendation of the suggestion which I have here ventured to submit, that I know it to have been the opinion of a very intelligent and respectable officer, who was some years ago employed in the settlement of the revenues of those districts, that the additional expense of the proposed new establishment might, after the first year, be defrayed from the country, without at the same time imposing any increase of burden on the subject.

Query 5.

What do you take to be the chief advantages and disadvantages of the British judicial system?

Answer.

On this part of the subject I can only observe, that I regard the British judicial system as providing, as fully as any system can do, for an uniform and upright administration of justice, and that the comparative security and comfort enjoyed by those subject to its influence, afford the best evidence of the advantages of it. On the other hand, it must be admitted that, in applying the principles of our civil and criminal codes to every case that may occur among a people, such as the uncultivated inhabitants of the more remote parts of Guzerat, of whose institutions, policy, and rights our best researches leave us much to learn, difficulties must occur, which can only be overcome by the continued exercise of judgment and discretion on the part of the Judges, who in having, under such circumstances, to dispense civil and criminal justice, are charged with duties of the highest delicacy and responsibility.

Query 6.

If you are of opinion that this system should be continued, in whole, or in its chief parts, could the expense of it be diminished, either by reducing the number of courts, or the scale of establishment (particularly in native servants and their allowances) for those courts?

Answer.

Certainly, the number of courts cannot be reduced; and I have already stated grounds for this opinion. Neither can, I apprehend, any part of their present establishments, until, at least, the habits of the people undergo considerable amendment. A revision took place shortly before I left India, with a view to effect every practicable reduction of charge, particularly in respect to native servants; and the result of that revision, which produced a considerable saving, was understood to have left those establishments on as low a scale as could be held to be compatible with their efficiency.

Query 7.

Considering the system prospectively, what do you conceive its progressive operation likely to be upon the state and opinions of the people?

Answer.

Judging from experience, I would infer the system to lead gradually, but certainly, to moral improvement. The purity of the judicial administration, by providing against the attainment of improper ends by unworthy means, and ensuring justice to all classes equally, seems peculiarly well calculated to alter the opinions and sentiments of the people. Now, indeed, they perceive themselves to be objects of attention with the local authorities, and are daily acquiring confidence in our institutions. Thus, as they become familiarized with our system, they will apply to the courts of justice, rather than seek personal redress; a change by which their passions and manner of life may, in time, be made to give way to habits of industry and of honest intercourse, such as naturally spring an attachment to the arts of peace.

Query 8.

Would the natives, in your opinion, confide more in the uprightness of European Judges than in Judges appointed from their own people?

Answer.

It is difficult to answer this question with any degree of certainty. The natives of Guzerat have, hitherto, been habituated to nothing analogous to our judicial system. Districts which have,

for more than half a century, been exposed to the rapacity and oppressions of farmers of revenue under the Mahratta Government, must experience great relief under the Company's more equitable administration. Were the natives thus to look back, and to draw a comparison, the result must afford ground to presume, that if not under the influence of undue prejudice in favour of their countrymen, they, but more especially the great body of cultivators, bankers, and merchants, would see abundant cause to confide more in the integrity of British Judges than of Judges chosen from among themselves.

Query 9.

Are you of opinion, that the natives may, in respect to integrity and diligence, be trusted with the administration of justice; and how far, or more particularly can any branch of the administration of justice be trusted exclusively to the natives, or will it be necessary that, in any part of a judicial system allotted to their execution, they should be superintended by Europeans?

Answer.

I am clearly of opinion, that the administration of justice, in all its branches, should continue to be superintended by European Judges, as the best guardians of its purity. Subordinately to them, the natives may, with every advantage, be employed as hitherto, or if necessary, with more extended jurisdiction; and they, but more especially the Hindoos, will be found to discharge their duties with every degree of temper, patience, and perseverance. Thus their diligence cannot be questioned; but, on the score of integrity, I would wish to be understood as not speaking so confidently. It is, indeed, to the extension and diffusion of European agency, that the Company should look for upholding the reputation of their Government, and also, let me be permitted to add, for maintaining their dominion in the East. Power, such as the natives might exercise in having the administration of justice, throughout extensive provinces committed to them exclusively, would be very liable to abuse, and might, in particular circumstances, operate very injuriously.

Query 10.

Are you acquainted with the average scale of population within the sphere of one zillah or judicial court?

Answer.

I have heard the population of the zillah of Surat rated as high as five hundred thousand souls; that of Broach at upwards of one hundred thousand, and the zillah of Kairah reckoned to be in some sort of mean. But these computations may, as not being founded on actual enumeration, be very erroneous.

Query 11.

What is your judgment concerning the system of police established by the British Government? Can it be rendered more perfect and efficient? or do you think it would be practicable and expedient to resort to any of the modes practised by the native governments for maintaining the peace and order of the country?

Answer.

In the formation of the existing police for the zillah of Broach, the former institutions of the country were not lost sight of. In the principal towns there are Foujdars, or native superintendants, with suitable establishments; and throughout the country, Thannahs or stations judiciously selected, to each of which is attached a certain number of armed men. Every village, too, has its proportion of watchmen. From these and the Thannah establishments night patroles are prescribed to be formed for each tuppah, or subdivision, and also for every village; and there are, besides, small parties of horse under the direction of the Magistrate, which he employs on the boundary of the zillah, or otherwise, as may seem best for general protection. Such, in brief, may be said to be the system in operation in the zillah of Broach; nor has it proved inadequate to the preservation of the peace and order of the country. Similar arrangements were in contemplation for the other divisions of Guzerat; but they remained to be matured when I left India. Much gratuitous assistance cannot yet be calculated upon; but under a change of circumstances, some classes of the Company's new subjects may be brought to co-operate with the executive officers of police, and thus render the burden of protection easier to the Government than at present.

But

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But, above all expedients, the disarming of the inhabitants, were it a measure of safe and practicable execution, would conduce, in the greatest degree, to the introduction of a system of regularity and quiet into Guzerat. At present the use of offensive weapons is general; and while carried, on the plea of self-defence, or for the security of property, they are often turned to very opposite purposes. In proportion, however, as this object is desirable, it will be found difficult of accomplishment; and, in the actual state of that country, I should hesitate to be the first to suggest the attempt, well aware that so serious an innovation might lead to active resistance: nor would a partial execution of the plan suffice. The governments of the Guicowar and of the Paishwa, whose territories every where intersect those of the Company, must be brought to adopt similar measures; and the necessity of this co-operation greatly increases the difficulties of the undertaking.

Query 12.

Can you state what the limits and superficial contents were of the district in which you served?

Answer.

The Court of Circuit and Appeal, of which I was a Judge, exercise jurisdiction over the whole of the British territories in Guzerat, which are so intersected by the possessions of the Paishwa and of the Guicowar as not readily to admit of my stating their limits and superficial contents. From the southern extremity of the zillah of Surat, bounded by Damaun, to the most westerly point of the zillah of Kairah, of which Gogo is the limit, the distance along the coast may be from two to three hundred miles, and the breadth from the sea coast into the interior, from thirty to forty miles.

Additional Query, received in Mr. Dalmeida's Letter of the 23d October 1813.

Query.

Have the courts of Adawlut, at any time, recommended the parties in a cause to withdraw the suit, and to submit it to the decision of the punchayet? or has the punchayet, at any time, or any occasion, been recognized by the courts of Adawlut or the English Government?

Answer.

I cannot call to mind any such recognition of the authority of punchayets. It is, at the same time, very possible, that in suits of a civil nature, respecting marriage, caste, and the like, the courts of Adawlut would incline to allow parties, mutually consenting to that mode of decision, to refer such matters to the judgments of the punchayets; but how qualified soever, from knowledge and experience, those assemblies may be to determine causes of the nature in question, in a manner conformable to the usages of their respective sects, I yet entertain considerable doubt, whether the established courts would find them to be safe or tractable coadjutors in this branch of duty. . .

In illustration of this opinion, I shall endeavour to state a case which fell under my own notice. At Surat a Hindoo had been tried for the murder of his wife before the principal criminal court in that city; but acquitted for want of evidence. The punchayet of the sect to which he belonged, dissatisfied with this judgment, proceeded, under suspicion of his guilt, to exclude him from caste privileges. For this serious injury the Hindoo prosecuted the punchayet in the civil court of that zillah, and obtained damages, to the amount of about one thousand rupees; their conduct appearing contumacious, in thus visiting with a punishment second only to death (for in that light expulsion from caste is regarded), a person who had been discharged by a court of competent jurisdiction. In turn, the punchayet lodged their appeal with the provincial court, whose decision went to affirm the decree of the lower court, with the option, however, to the punchayet, of relief from the damages so adjudged, should they assent to readmit into the caste the expelled party: a condition with which, at the latest date of my residence in Guzerat, they had not complied.

The customs and institutions of the natives are certainly entitled to every attention and consideration, and none more so than such as tend to the improvement of morals. But here, it is submitted, was a case in which the authority of the first local tribunal under the Government must have been compromised

promised, had the punchayet been allowed, with impunity, to arrogate to itself a power, by which a native subject of the Company, the victim of their persecution, was deprived of the benefit of laws, which, far from pointing to conviction on inadequate evidence, expressly enjoin circumspection and tenderness in receiving even the confession of an offender.

From these particulars, which have been as accurately brought to view as recollection has enabled me, some judgment may be formed of the consequences to be apprehended from admitting a right in the punchayets to interpose in what regards the administration of justice.

(Signed) J. A. GRANT.

MADRAS JUDICIAL SELECTIONS.

REPORT *of the* COMMITTEE *of* GENERAL POLICE *to the* MADRAS GOVERNMENT,

Dated the 24th December, 1806.

To the Right Honorable Lord William C. Bentinck, Governor in Council.

My Lord:

Letter from the Committee of General Police, transmitting their report on the present and former state of the Police of the several provinces under this presidency.

Report of Police Committee, 24 Dec 1806.

1. We have at length the honour of submitting to your Lordships in Council the result of our inquiries into the present and former state of the police in the several provinces under this presidency; but previously to entering on the subject of this address, we consider it incumbent on us to apologize for the protracted period to which the transmission of it has been delayed.

2. On the receipt of your Lordship's orders, conveyed in Mr. Secretary Buchan's letter of the 22d December 1804, we assembled and framed inquiries, which were transmitted to the several Magistrates, Collectors, and Commercial Residents *, and which your Lordships will observe, on perusal of the copies now transmitted for the information of your Lordship in Council, were directed to every point from which the Committee could hope to derive useful information. The replies of the gentlemen to whom application was made, which have for the most part been many months received, manifest the laudable spirit of co-operation with which they entered upon the subject, and might have enabled the Committee to submit their report respecting the Northern Circars at a much earlier date; but they deemed it to be proper to defer submitting any proposals for the reform of the police department in that particular portion of the Company's territories, until they might be enabled, by the receipt of the promised report of Lieutenant-Colonel Munro, to avail themselves of the acknowledged abilities and experience of that gentleman, and to revise and compare the system of police which had suggested itself to them with that which might be found in the report of Lieutenant-Colonel Munro.

3. The unremitted occupation of Colonel Munro's time in the discharge of his immediate duties, was stated as the cause which must delay the transmission of his report; but the Committee have at length received it, and they have the satisfaction to find that Colonel Munro's sentiments generally concur with the opinions which they had adopted on the perusal of the reports of the several Magistrates.

4. The reports from the Northern Circars all concur in stating the absence of all information respecting the ancient police of those provinces, which is not now to be traced; and we are therefore left to the presumption, that at some period, perhaps not very remote, the same municipal institutions prevailed, which are found to pervade the greatest part of the territories under this presidency.

5. This conjecture is, indeed, supported by the remnant which still has a partial existence in the several zillahs, where village watchers are yet to be found under different names. In the zillah of Ganjam they are called "Dundasses;" and in the district of Chicacole, under the same zillah, they have the name of "Barkees," which term also designates the same description of people

* Letters to the Judges and Magistrates of the zillahs of Ganjam, Vizagapatam, Rajahmundry, Masulipatam, and Guntoor, dated 31st January; Chingleput, 29th January, to the Collectors of the districts of Nellore, Trichinopoly, Coimbetore, Dindigul, Arcot, Tanjore, and Tinnevelly, dated 14th March 1805; to the Commercial Residents at the stations of Vizagapatam, Madepollam, Masulipatam, Cuddalore, Nagore, Salem, Ramnad, Tinnevelly, and Ingeram, dated 30th March 1805.

Report of Police Committee, 24 Dec. 1806.

in the zillah of Vizagapatam. In Rajahmundry the village watchers are denominated "Naickwadies," and are stated to be subordinate to a superior Naickwady, who has the ward of a whole purgunnah; an institution which appears to the Committee to correspond, in some respects, with that of the main and petty Cauvilgars in other provinces. In the zillah of Masulipatam the particular description of servants to whom the details of police are entrusted are not stated by the Magistrates, who say generally, that the duties have been performed by the village servants under the Zemindars. In the zillah of Guntoor the village watchers are called Mahatads.

6. The services performed by these people, under such various denominations, are precisely the same, and comprize, with hardly a shade of difference, the duties performed by the village watchers, under the name of Talliary, in almost every other province of the peninsula; it is therefore not improbable, that the same institution was at one time established in the Northern Circars also.

7. The causes of the alterations which have occurred in the police of the Northern Circars, which have indeed almost produced its extinction, are not distinctly traced; but they may, perhaps, be ascribed to the circumstances which attended the destruction of the Hindoo empire by the Mahomedans, whose irregular, though violent irruptions, while they overthrew the legal government, gave to every powerful landholder and military chieftain an opportunity of assuming independent and arbitrary authority, which he maintained, until the establishment of tranquillity in a different quarter enabled the conquerors to turn their attention towards him. Such, perhaps, was the general state of the country immediately after the expulsion of the Hindoo dynasty from the throne: but the Northern Circars afforded a more permanent example of resistance to the Mahomedan power, for it does not appear that they were ever entirely subdued, although the Zemindars were awed into the payment of a tribute, uncertain in its amount, which they took every occasion of withholding, and indeed seldom discharged, except when pressed by a very superior force. The inaccessible nature of some parts of their country, and their extreme insalubrity at one time of the year, which necessarily set a limit to hostile operations against the Zemindars, preserved them from the effects of the revenge which their Mahomedan masters might desire to inflict upon them, but which could not be executed without bringing destruction on their own troops, and they availed themselves of the opportunity afforded by the troops being withdrawn to relapse into disobedience.

8. This continued state of warfare with the ruling authority, and the internal feuds among the Zemindars, rendered it necessary that the establishment for the preservation of tranquillity, which was throughout India of a military character, should be employed entirely in military duties. The nature of their services dictated the nature of their remuneration, and we accordingly find that the peons of the Zemindars were paid like the peons of the Poligars in other parts, by service lands, under the term "kulpuddy." The Zemindars, in fact, resembled Poligars in many respects. They did not enjoy their estates and privileges under the peaceful protection of administered law, but they maintained themselves in their possessions by the power of the sword. They were involved in frequent disputes and mutual aggressions, in which the population of their respective zemindarries were included; for in their petty quarrels it was impossible to remain neuter: every inhabitant of a zemindarry must espouse the cause of the Zemindar, or expose himself to his resentment, which as it was uncontrolled by any superior authority would render his life precarious The influence of the Zemindar pervaded, in consequence, every part of his possessions, and established itself with a firmness which it will require several years to overcome. Not only were the details of police in the hands of the Zemindars, but the administration of justice also; and as they were uncontrouled in the discharge of these high duties by law or superior power, and engaged in no other pursuit than their own personal gratifications, it is not to be imagined that they paid much regard to the obligations which naturally attached to their situations.

9. Information has not been furnished to us of the attention paid by the Zemindars to the suppression of theft. It probably did not exist, or existed perhaps in a small degree; for where every person, except those employed in the

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the cultivation of the land, was in the pay of the Zemindar, and where every quarrel was the Zemindar's, there could not have been many opportunities for the perpetration of this crime. It does not appear now to constitute a general crime in the Northern Circars. Gang robbery, committed by that very description of persons who formed the military dependants of the Zemindars, is much more prevalent, and may be ascribed to their want of employment under the present system, and to the idle habits in which they have been brought up. But this crime could hardly have had existence while these people were employed by the Zemindars; or if it did exist, the Zemindars, probably, shared in the plunder, and the Government of the Decan concerned not itself with the internal management of the zemindarries.

10. The nature of the Mahomedan government was, indeed, unfavourable to the establishment of a civil police in its Indian conquests. Founded on a religion which abhors toleration, the Government appears not to have consulted the welfare of its conquered subjects. An infidel was not, in the estimation of the Mahomedans, entitled to the privileges of a man; and although they appear to have receded from the first idea, with which they set out, of propagating the law of Mahomed by the sword, they would seem to have been actuated and impelled by a thirst of power and conquest, and by the necessity of paying their troops from the revenues of the conquered country. They in consequence paid little or no attention to the municipal institutions of the country, but exacted from it what they could, and trusted to their military prowess for the maintainance of their dominion. The legitimate end of Government, as far at least as regarded the indigenous inhabitants, was thus inverted: the welfare of the conquered society was sacrificed to the ambition of the ruling authority; and it is not then to be wondered at, that its influence was relaxed or strengthened, in proportion to the means which it possessed of enforcing obedience.

11. To these causes may be attributed, in the opinion of the Committee, the abolition of the police establishments and the aggrandizement of the power of the Zemindars in the Northern Circars; and it appears to them not at all a matter of surprize, that the power which the Zemindars possessed should, in in its uncontrouled execution, be not unfrequently perverted to improper purposes. There would, indeed, be much greater room for astonishment, if the Zemindars, uneducated as they were and enthroned in absolute authority, had refrained entirely from the irregular exercise of it: but the conduct of the Zemindars will be more properly considered in a subsequent part of this report.

12. It appears sufficiently established, from the reports of the several Magistrates, that if a police did formerly exist in the Northern Circars, it has suffered material alteration (whether from the causes surmised by the Committee, or from any other, is of no great importance), and that the duties of that department have been performed by the head inhabitants and revenue servants of the Zemindars, aided by their military dependants. In some of the principal towns a distinct establishment of a Cutwall and Peons was entertained; but it differed entirely from the original institutions of the Hindoos, and would appear to have been borrowed from the Mahomedans. These establishments, were, however, merely local, applicable to towns only, and in no respects connected with the general police of the country.

13. The Circars came into the possession of the Honourable Company in the same state of insubordination to the ruling authority as they had maintained towards the Government of the Decan. It does not appear that measures were taken by the British Government towards introducing the direct authority of the Company in the zemindarries by means of their own servants, till within these few years; nor was any interference exercised with the police, which of course remained on the same footing.

14. The establishment of the courts of judicature introduced a new epoch in Indian government, and established a reform which, it is hoped, will produce a considerable improvement in the morals of the inhabitants of the peninsula. That that improvement may be accelerated or retarded by the nature of the police establishment proposed to be introduced cannot be doubted. The police must assimilate in its principle to the judicial establishment, or one will counteract the other, and the effect of both be diminished.

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15. The system of police proposed by most of the Magistrates in the Northern Circars provides for the entire exclusion of the Zemindars, and for the discharge of its duties by persons in the immediate pay of Government. The arguments in favour of this proposal are grounded chiefly on the known tyrannical disposition of the Zemindars, and on the impolicy of vesting them with power to do harm. The Magistrates are also, in general, of opinion, that the duties of police can never be so well discharged as by men in the immediate pay of Government, and dependent on it for favour and support.

16. The Committee attach a due weight to the authority and experience of the gentlemen by whom this system has been proposed: but they are inclined very much to doubt its policy, because its principle is to exclude both the Zemindars and the inhabitants from all concern in the administration of the police, and of course to set them in opposition to it.

17. If, under the name of police, it be intended to establish a system of espionage, the Committee are prepared to acknowledge, what all history has demonstrated, that the greatest adepts in cunning and intrigue are the fittest instruments to be employed in such an institution: but they are not aware that any good consequences would result from it. What advantage will Government derive from depriving the powerful landholders of the country of all confidence in its justice, and from rendering them suspicious of its intentions by entertaining a low establishment, whose only object is to watch their motions and to be spies upon their conduct? or will the stability of our power be improved, by separating the interests and wishes of the most powerful and respectable of our subjects from the success of our internal administration? In the opinion of the Committee, the converse of these propositions are most consonant to justice and sound policy.

18. The principle, indeed, seems to be acknowledged in the judicial code, by which the zillah Judges are authorized, under the sanction of the Sudder Adawlut, to issue commissions to Zemindars, among others, empowering them to hear, try, and determine civil causes of a certain extent; and if they can be entrusted with the administration of justice, it is difficult to conceive any objection against employing them in apprehending offenders, and in preventing the commission of crimes. The same reasoning applies to granting them civil and criminal jurisdiction, and the same answers may be given to objections urged against either. The power of doing harm in their civil capacity is withheld from the Zemindars, by denying them the power of enforcing their own judgments; and they will have just as little means of committing oppression when invested with a criminal jurisdiction, if it be limited to inquiry into offences, and to forwarding offenders, with every procurable document and evidence relative to their crimes, to the Magistrate, to investigating the characters of suspicious persons, and sending them, if there be reasonable cause, to the Magistrate.

19. These powers must be exercised by some description of natives, or there will be no internal police, no check upon the commission of crimes. The point to be considered then is, whether is it better to entrust them to the substantial landholders of the country, who have property to defend from depredation, or to hireling servants, who have no permanent interest in the suppression of crimes, and are actuated to the discharge of their duty by the sole motive of preserving their salary.

20. To this as an abstract question the answer is obvious: but to the impulse of reason are opposed the negligence, ignorance, dissipation, and the criminal habits of the Zemindars. These, it must be allowed, are strong objections to the investing the Zemindars with power; but are they unanswerable? To solve this question, it is necessary to inquire whence the habits which have been attributed to the Zemindars originated, and whether the causes of them have not been removed; and if they have been removed, what are the measures most likely to produce a reform in the conduct and character of the Zemindars, and to render them useful subjects?

21. The circumstances under which the Zemindars acquired power have been stated to be the convulsion and ruin of empires; when violence prevailed over lawful authority, when personal safety was annihilated, and indivi-

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duals were compelled to associate together under some head for their mutual protection. To this circumstance may, perhaps, be ascribed the various casts of the Zemindars. The motives which probably impelled the Zemindars to the irregular exertion of arbitrary power have also been described as arising from the same cause. But as the wavering and unconfirmed authority which the Government of the Decan exercised over the Northern Circars has been at length succeded by a civil constitution, established on fixed and permanent principles, supported in its internal administration by the military power of the Company, the Committee conclude that the causes of the irregular habits of the Zemindars have been removed, and that although the new constitution cannot be expected to eradicate, at once, every evil principle which has been excited among the Zemindars by the former state of things, the Committee cannot doubt the ultimate certainty of its effects. But is it safe, at this early period, when the authority of our courts is barely established, to intrust any power to the Zemindars; or will any advantage be gained by excluding them from all concern in the police?

22. The Magistrates, in general, in the Northern Circars seem to be of opinion, that the direct authority of Government will be more speedily introduced in the zemindarries of the Northern Circars in the establishment of a separate police, to the exclusion of the Zemindars: but as their opinions are founded on the disposition engrafted on the Zemindars by an order and relation of things entirely different from existing circumstances, the Committee are inclined to believe that their sentiments, however just as they relate to the past conduct of the Zemindars, are not entirely compatible with the principles of the new constitution, nor calculated to produce the effect which the Magistrates appear to desire, of weakening the influence of the Zemindars, and separating their interests from those of the people.

23. The institution proposed by the Magistrates in general, excludes both the Zemindars and head inhabitants; and it must follow, of course, that neither will feel an interest in supporting it; and that both will feel an interest in opposing it. The ascendancy of the Zemindars will not, therefore, be at all weakened by this circumstance: but if the Zemindars and head inhabitants were both included in the municipal institution of the country, as they have hitherto been, and each vested with a separate interest, and charged with a separate responsibility, they would soon learn to appreciate the privileges bestowed on them; and to guard against the injury which either might sustain from the encroachments of the other.

24. Mr. Thackery, Magistrate of the zillah of Masulipatam, alone, of all the Judges in the Northern Circars, has embraced the idea of uniting as many persons as possible in the police, and particularly the Zemindars and head inhabitants: and the Committee acknowledge that they generally coincide with his opinion, which indeed has the still stronger support of ancient usage. In almost all the other provinces, the Committee remark that the head inhabitants of villages, with the Curnums also, are intimately connected with the police, and they have stated their reasons for believing that the same system must formerly have had existence in the Northern Circars.

25. If the opinion of the Committee on this subject be well founded, they are naturally led to favour the re-establishment of the ancient usages of the country, as a measure most conformable to the sentiments of the Honourable Court of Directors, and to the avowed principles of our Government, and which must be most acceptable to the inhabitants of the Northern Circars. The limitations under which the Committee propose that the Zemindars should exercise the powers of police officers, leave little room to apprehend any abuse of their authority. Indeed, no expectation can reasonably be entertained that men in their situations will enter actively into the discharge of police duties; and it is accordingly proposed, that Government should avail itself of the services of their dependents, and to include the head inhabitants in the system, in such a manner as to render them sensible that they have a duty to discharge, and a responsibility to incur independent of the Zemindars, who will be gratified with being invested with a distinction which will not give them power to do harm; and they will be rather inclined to avoid than to court the exercise of an authority, which will subject their acts to the inspection and control of the

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the superintending officer of police; whether he be the Magistrate or the Collector.

26. Previously, however, to defining the authority which the Committee would propose to give to the Zemindars, they deem it proper to notice some of the objections which have occurred to them against a separate police exclud-ing the Zemindars. It would have the effect of ungraciously distinguishing them by a peculiar mark of distrust of their fidelity and attachment, and of de-priving them of confidence in the protection of Government. They could not see, without disgust, the appointment of a set of men, much beneath them in rank, to watch, check, and control their actions, and they would resort to the most obvious means of rendering such an establishment an useless burden to the state.

27. The entire want of connection between a separate police establishment and the people, would leave it without the means of procuring information, and inefficient for the purpose of apprehending robbers. Peons could not be sta-tioned in every village, without subjecting Government to an enormous ex-pense, and robberies would be committed where they were not stationed.

28. If the duty incumbent on every member of society to contribute his assistance towards the suppression of crimes, by which he is exposed to suffer injury in person and property, be delegated to a particular class of men paid for the purpose, the rest will naturally become careless about it, the duty will be imperfectly discharged, and the system be in danger of degenerating into a species of cavally of the worst kind, the defects of which have been sufficiently exposed.

29. The powers given to a police of this description must be as extensive, or perhaps from the circumstance of their want of influence more so, than those which must be attached to a municipal system, comprehending the Zemindars and head inhabitants; and as much abuse of authority is to be expected from them, indeed it is difficult to believe that, as their situations would be tem-porary, they would not yield to temptations to improve them by corrupt practices.

30. The armed corps which have been placed under some of the Magistrates are liable to be more serious objections, as they entirely alter the nature of the constitution established for the government of the provinces. They, in fact, constitute an instrument of coercion in the hands of the Magistrate, which he can exert without control. They present him to the inhabitants, not as he is described in the judicial code, a civil officer empowered only to issue certain process, relying for its execution on the obedience of the subject, which if not yielded he can call on military aid to enforce; they present him as an officer, invested with civil and military power, at the head of a force capable of carry-ing his orders into execution, without reference to any other authority.

31. No delay is necessary in applying for military aid, no discretion allowed to any other person respecting the strength of the force which may be neces-sary for the occasion; the officer commanding the police is under the orders of the Magistrate, and must obey him. Government is thus deprived of a check over the indiscreet employment of military force by the Magistrate, and the consequences which might arise from a momentary error of judgment, on his part, in the exercise of the power entrusted to him, are deserving of serious consideration.

32. A Zemindar might be guilty of thoughtless disobedience, but might avert the consequences by submitting before a military force could be sent against him; but the promptitude with which the police corps may be called into action to support the orders of the Judge and Magistrate, and the circum-stance of that force being under the command of the person whom the Zemin-dar had insulted, by showing a contempt for his authority, might excite an alarm superseding reflection, and drive him to desperate extremities or to a precipitate flight.

33. It will be observed, that the sentiments of the Committee are not appli-cable to the police corps as an irregular military force, but as an armed force at the uncontrolled disposal of the civil Magistrate, which places him in a light

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totally different from that in which he is represented in the Regulations promulgated to the natives, and appears calculated to excite sentiments opposite to those which were in the intention of Government, on establishing the new system of revenue and judicature, which professed to put an end, by the execution of just laws, to those causes of disaffection in the Zemindars which had so often rendered it necessary to call forth the military force of the Company against them, and by inspiring them with confidence in, and respect for the local courts, to render its future employment unnecessary: but the evident object of these armed corps is to control the Zemindars, and their natural effect must be to excite in them a dread of coercion.

34. The letter from the Supreme Government, enforcing the expediency of generally introducing the courts of judicature, is so pointed on the subject of employing the military force in support of the civil power, that the Committee deem it to be proper to insert the following quotation.

" Par. 20. The administration of justice and the maintenance of the peace " of the country should therefore be rendered exclusively the duty of the " Judges and Magistrates of the regular zillah courts. If the authority of the " laws cannot be maintained by the ordinary means prescribed for giving effect " to the process of the courts, it will be the duty of the Judges and Magis- " trates to require the aid of a military force, not to countenance oppression, " but to enforce the process of law. The Judges and Magistrates will be re- " quired to transmit to your Lordship in Council immediate intelligence of " the circumstances which may have required military aid. The operations of " the military force should be restricted to the service which occasioned its " employment; and after having accomplished that service, the troops should " be remanded to their established station.

" The Magistrates should be instructed to avoid applications for military " aid, excepting in cases of indispensable necessity. The employment of the " troops should not be considered to be among the ordinary means of enforcing " obedience to the laws. The operations of a military force must generally " be attended with circumstances calculated to excite alarm and disaffection " in the minds of the people, and to destroy the public confidence in the jus- " tice and protection of the civil government."

35. The advantages of an irregular military force, of the description of that maintained in the zillah of Rajahmundry, when it may become necessary to undertake expeditions into the hills, may perhaps be indisputable. The Committee will not venture to state a doubt on the subject; but they are of opinion, for the reasons already stated, that no such force should be attached to the civil department; and they beg leave to suggest, that if the continuance of the irregulars should be deemed indispensable to the peace of the Northern Circars, they may be placed under the control of the officer commanding the northern division of the army, or of a particular district, under such rules as may be calculated to insure the efficiency of their services.

36. If this measure be adopted, it will perhaps be found unnecessary to appropriate a separate battalion to each zillah in the Northern Circars; but the whole force may be reduced to one corps of sufficient strength, under the command of one or more European officers, and may either be concentrated or dispersed in detachments with the regular troops, as occasion may require. The Committee will not venture to state the saving of expense which may result from this arrangement, as it will depend on the opinion of the officer commanding the northern division of the army, respecting the number of irregulars which he may consider sufficient, with the co-operation of the regulars in that division, to secure the tranquillity of the zillahs comprehended within his command. The Committee are inclined to believe, that a corps of a thousand or twelve hundred men may be found sufficient for the protection of the country situated north of the river Kistnah.

37. The Committee are informed that considerable success has been obtained over the insurgents in the zillah of Ganjam, by the employment of a similar force under the orders of the Magistrate of that zillah, and they are aware of the arguments which may be deduced from such consequences in favour of the establishment. The Committee will, however, only observe on those successes, that

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that they were the result of military operations, which will produce the same effects when ably conducted, whatever may be the official designation of the leader; and they beg leave to repeat their opinion, that the conduct of military operations forms no part of the duty of a zillah Magistrate, as defined by the Regulations.

38. The union of the civil and military powers in the person of the Magissrate has been observed to constitute the strength and the weakness of all feudal governments, and it has been carefully guarded against in the formation of the British constitution, and of that which has been established for the government of these territories. Such an union of powers in one person cannot, therefore, now be introduced, without violating the principles of the constitution, and instituting a new order of things. But it is unnecessary to pursue this subject further.

39. The system which the Committee propose provides for the discharge of the duties of police, as far as they relate to the prevention of crimes, and apprehension of offenders by the body of the people themselves, by the heads of villages assisted by the village accountants, and village servants in the first instance, to be superintended and controled by the Zemindar and his servants.

40. It is not intended to impose on the zemindars the necessity of engaging actively in duties of police, but to invest them with the honorary distinction of a superior authority, similar to that possessed by the lord-lieutenants of counties in England, while the duties may be discharged, as in that country, by a Sheriff or Darogah.

41. It is, in fact, proposed to introduce a system similar in its principles, and greatly so in its details, to that established in England by Alfred; which it will be observed, on reference to the report of Lieutenant-Colonel Munro, who has furnished the fullest information on the subject, accords very strongly with the institutions of this country, and might therefore be introduced without difficulty.

42. A suggestion has occurred, that the institutions of Alfred might be enforced here without variation, and that the people might be classed in centenaries, and subdivided into decenaries, as was done in England; but the Committee apprehend, that the introduction of the measure might be attended with difficulties, which would more than counterbalance the good effects to be expected from it. The numbering of the people is opposed by strong prejudices, and the Committee are not aware that a stronger responsibility could be established on it, or a greater security for the good conduct of individuals, than if the present division of the country and population in villages were followed. That system is, in the opinion of the Committee, most eligible, which is the least calculated to excite suspicion and alarm.

43. The present division of the country into villages and dependent hamlets is well known, and the influence of the head inhabitants of those villages is established on the broad basis of immemorial usage and prescriptive right. The object of the Committee is to render their influence useful to the state, by confirming it with the sanction of public authority, and by uniting with it a responsibility which shall ensure its exercise for beneficial purposes.

44. The impossibility of any society existing without a head, has naturally given to the most powerful or most wealthy inhabitant of every village an authority which is generally obeyed by the rest. This authority has undoubtedly, in many instances, been abused; but the abuses, if traced, will be probably found to originate with the ruling authority: and as the object of the power which circumstances lodged in the hands of these people was public utility, the inference appears reasonable, that it may, by proper regulations, be reformed, so as to answer the purposes of its original institution. To divert the controling power of small societies from the persons in whom it was primarily and naturally vested, and to place it in hands uninterested in the welfare of the society, and without any influence in it, appears little calculated to conciliate the affections of the powerful or of the weak, since the influence possessed by the former would naturally be exerted over the latter, who hear not the dictates of reason to alienate and detach their minds from the new authorities.

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45. The operation of such a measure has been powerfully exemplified in the history of the province of Malabar, where the introduction of a foreign influence, combined with other causes, produced discontent and rebellion, while the adoption of opposite measures, and the employment of those persons with whom the influence of the country naturally rested, in the administration of the internal government, has been followed by a return of tranquillity and industry.

46. Upon these grounds, the Committee prefer following the present division of the country to the adoption of any other, which might induce an infringement of ancient usages, and an invasion of the acquired privileges of the head inhabitants of the villages, whom it is proposed to render responsible for the other inhabitants of their respective villages, to subject them to fine by the Magistrate, for neglect of duty, and to declare them liable to prosecution in the zillah courts for any abusive exercise of authority.

47. Their duty should be defined in a commission under the seal and signature of the Magistrate, and in a corresponding penal engagement. It may be comprehended under the following general heads, viz., to cause the village Accountant to register all descriptions of persons whom it may be deemed expedient to register, and transmit the register to the police Darogah of the division; to communicate to the Darogah the earliest information of any bandittis who may be collecting in his vicinity; to report the arrival of any suspicious character with every circumstance relating to him, or if it appear necessary, to forward such person or persons to the Darogah for the purpose of being sent to the Magistrate. This power should, however, be used with great caution; but it should be their especial duty to afford the most prompt and effectual assistance in the execution of a warrant from the Magistrate, without reference to any other authority whatever, and for this purpose they should be empowered to call upon all persons to contribute their aid, and whoever refused should be liable to be punished by fine. The head inhabitants should also be liable, for defaults in the discharge of this duty, to fine or imprisonment, as the case might be.

48. The privileges enjoyed by the head inhabitants may be considered a sufficient remuneration for the services here enumerated, which constitute the duties hitherto required of them, with scarcely any augmentation.

49. The head inhabitants may be also required in the territories of the Company, as they are in all other provinces of India, to procure the supplies required by individual European travellers at a fixed price, to be determined in the manner hereafter described.

50. Although the experience of the Committee compels them to receive with caution the very favourable account given in General Stuart's minute of this mode of supplying the wants of travellers in the territories of Mysore, and to believe that abuses will be practised in the distribution of the price paid by the traveller for articles consumed by him, and that instead of going to the proprietor of the articles, it does not unfrequently constitute a source of emolument to the head inhabitants, and to others whose interest or secrecy must be conciliated, they are of opinion that it is an object of some importance to the European character to rescue the traveller from the degraded situation in which he is represented by the minute to be sometimes placed.

51. It is certainly desirable that the struggles of imposition and fraud, and the enmity arising from such practices, should be confined, as much as possible, to the natives, and that the European character should be preserved from any share in such disgraceful contests. This may be the most effectually done in the manner described in the minute of General Stuart, by confining the intercourse of the traveller with the natives to the communication of his requests, and to paying for the articles which he may receive at the price fixed in a table to be shewn him. Redress of abuses practised with the money paid for the articles may be provided, by empowering the zillah Magistrates to make a summary inquiry into cases of this nature, and to carry their judgments into immediate execution without appeal.

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52. Under the head inhabitants, the Curnum, Talliar and other village servants should be employed, as they are at present in the police duties.

53. It may perhaps be advisable to attach a Peon, or some public officer, to the head inhabitants, in some of the principal villages on the high road, who being paid from the public treasury, will serve both as a support to their authority, and as a check upon them in the execution of it.

54. The superior charge of the police of a zemindarry should be vested nominally in the Zemindar; but the duty should be executed by a deputy, or Darogah, appointed by the Magistrate, at the recommendation of the Zemindar, who should be paid from the treasury, and whose duty should be described in a commission, under the seal and signature of the zillah Judge, and in a corresponding penal engagement subscribed by the Darogah. Perhaps an advantage might be obtained in preserving a more frequent intercourse between the Magistrate and the people of influence in the zemindarry, if a degree of distinction were attached to this office, and if it were vacated every year.

55. In like manner, such Zemindars as might chuse to exercise the authority of a police officer should take out a commission from the Judge and Magistrate, and execute a corresponding penal engagement, without which they should not be suffered to act.

56. The obligation of a penal engagement is preferred by the Committee to an oath, because the latter is repugnant to the feelings of the Hindoos, and would not be taken without the utmost reluctance.

57. Neither the Zemindar nor the Darogah should possess the power of appointing or dismissing any of the subordinate officers of police, who should be selected, as before stated, from the most respectable of the inhabitants of the zemindarry for their respective villages; but all the servants employed for the time being by the Zemindars in the collection of the revenue, should be required to assist the officers of police in the discharge of their duties, particularly in the execution of a warrant, and should be liable to be punished, by fine or imprisonment, for refusing their assistance when called upon.

58. The foregoing recommendations contain little that differs from the known duties of the police as established by the usages of India; but to make the system more efficient, the Committee would propose to impose on the districts and villages a responsibility, similar to that which was imposed by Alfred on the counties, hundreds, and decenaries in England, of making good the losses occasioned to individuals by robberies, and by the time lost in attendance upon the court of circuit, during the prosecution of the offender; or if the offender should escape, a fine should be levied from the zemindarry, proportioned to the nature of the offence, from which the losses of the sufferer should, in the first instance, be reimbursed to him, and the remainder might be reserved as a fund for defraying police charges, and rewards for secret information.

59. This proposal has two objects: the first of which is to encourage unfortunate persons who may be robbed, to appear and prosecute offenders before the court of circuit, from which they appear to be deterred at present by the fear of the revenge which may be inflicted on them by the culprit if he should escape, or by his associates; and by the expense and loss of time attending a prosecution, which instead of producing benefit to them adds to their misfortunes: a consequence which the Committee regard as a radical defect in the judicial code, deserving of serious consideration.

60. It is not denied, that it is a duty incumbent on every member of society to assist in the suppression and punishment of crimes; but will the experience of mankind justify the expectation, that a man who has already suffered loss by robbery will add to the extent of his losses by a prosecution, which if it should end in the conviction of the offender, can only exhibit an example to deter others from invading his neighbour's property, without producing one positive good to himself? Self-interest will advise him to be content with his first loss; and humanity, if he possess it, will forbid him to be the cause of another losing his life. Some inducement ought to be held out to counterbalance these feelings and to further the ends of justice.

61. A second

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61. A second object of the proposition is to render it the interest of the community at large to apprehend offenders and prevent the commission of crimes, and to overcome, if possible, that indifference to the perpetration of the greatest enormities, which too generally prevails among those who escape injury, and who are ready to aid the plunderers and share the booty.

62. For these reasons, where a murder may be committed and the offenders not brought to justice, a fine ought to be levied upon the zemindarry.

63. The fines should be levied by the zillah courts under the orders of the courts of circuit, in the manner prescribed by the Regulations.

64. The foregoing paragraphs contain the principles of the police which the Committee deem best adapted to the local circumstances and nature of the inhabitants of the Northern Circars. It is described more minutely in the accompanying draft of a Regulation, which the Committee believe to be applicable to all the zillahs where there are Zemindars; and where there are none, it would appear to be only necessary to expunge that part which relates to the Zemindars, and the remainder may be enforced, for it is, in fact, grounded on the existing police of the country.

65. Assuming that Regulation XXXV of 1802 contained the principles of the system which it was considered desirable to extend to all the provinces under this Government, the Committee deemed it right to call upon the Magistrate in the zillah of Chingleput for an account of the success of the institution, and to desire that he would suggest such amendments as he might consider necessary. The alterations suggested by Mr. Stratton are contained in his letters, which accompany this address; but it will not serve any useful purpose to take up the time of your Lordship in Council with a discussion of them, as they do not affect the principles of the system. The mode of appointing the police officers, from the Darogah to the lowest description of servants employed under him, and the security which has been provided against their arbitrary removal at the pleasure of the Magistrate, have appeared to him defects, while the Committee apprehended that they originated in the expediency of rendering their offices respectable and permanent. The number of jurisdictions and pay of the Darogahs are also pointed out, and the Committee think justly, as objects of reform which ought doubtless to be kept in view; but immediate reform is opposed by the claim of the individuals who fill the offices, who, in fact, are paid such large salaries, as a compensation for the immunities which they formerly received, and which were resumed on the introduction of a police establishment.

66. The revenue services performed by the Taliars of the villages are also objected to; but as they have always constituted a part of the duty of this description of village servants, the Committee are of opinion that the proposition of Mr. Stratton for absolving them from this particular duty could not be adopted, without causing a most unpopular alteration in the municipal economy of the country, as it has been established for ages.

67. The objection advanced by Mr. Stratton against the hereditary succession of the Taliars to the office is also unfortunately in opposition to the custom of the country; but the Committee are of opinion that it may be completely obviated by a declaratory clause, which they have accordingly introduced into the accompanying draft, that the right of the heirs of a Taliar to succession to his office, on his death or removal, is not intended to be established in a woman.

68. With this alteration, which is proposed to be applied also in the zillah of Chingleput, the provisions of Regulation XXXV of 1802 appear applicable to all the provinces under this Government, and the draft submitted by the Committee will accordingly be found conformable to it in every respect in which the natives are concerned; but the Committee have ventured to propose a change in the European agency, which requires particular explanation.

69. That part of the judicial system which relates to the detection and punishment of crimes has appeared to the Committee to be defective in two material points.

 70. The

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70. The first is the superintendence of the police, which being committed to the zillah Judges, whose avocations are sufficiently urgent to occupy the attention of any individual, is not active, even where there is a particular establishment retained for the purpose. Hence arises the opportunity for negligence in the discharge of this duty, and the cause for the dissatisfaction expressed by the late Judge and Magistrate of the zillah of Chingleput, and his consequent desire to have the police Darogahs more immediately at his own disposal.

71. The second is the mode of administering criminal justice, which under the system of half-yearly gaol deliveries is so tardy, that petty offenders, who are only sentenced to imprisonment of two or three months, as the punishment of their crimes, may be four or five months in confinement before they are put upon their trial; and the period of punishment prescribed by law is thus postponed to so late a date after the commission of the crime, that the advantage of the example is lost, while the real punishment suffered by the delinquent may perhaps be in a triple proportion to his demerits.

72. As a remedy to the first of these defects, the Committee propose that the immediate superintendence of the police establishments should be entrusted to Collectors, without diminishing the powers at present vested in the zillah Judges. This proposition, which differs from the Regulations established in Bengal, in no other respect, than that of entrusting the immediate control of the police establishments to a different person, the Committee deemed it right to communicate to the local Magistrates, and to require their opinions on the subject.

73. The answers of the Judges and Magistrates of Masulipatam and Vizagapatam are favourable to the adoption of the measure. The Judge and Magistrate of Ganjam considers it a matter of indifference, as he has the command of sufficient time to enable him to discharge the duties of both departments: the Judge and Magistrate of Rajahmundry thinks the relief it would afford to the Judge is its only recommendation; and the late Judge and Magistrate of Guntoor is apprehensive of the consequences of entrusting power to a Collector. This part of the subject had been well weighed by the Committee before they ventured to suggest the measure. They fully admit the impropriety of vesting a Collector with judicial powers; but the reasons which have been urged on that subject do not appear to the Committee to manifest the inexpediency of employing his services in preserving the peace of the country. It must be a very great perversion of intellect, which could distort the means provided for the correction of breaches of the peace, so as to apply them to defaulters of revenue, for the realization of which particular provisions are established, and could not be deviated from without a dereliction of public duty. Indeed, if an apprehension of this nature were admitted to constitute a valid objection to the investiture of a Collector with the authority of a Magistrate, it would apply with equal, if not greater force, against the union of civil and criminal jurisdiction in the same person. The head which might be liable to such perversion, would doubtless be regarded as incapable of discharging the duties either of a Judge or of a Collector. In any other point of view, the Committee do not apprehend that any inconvenience would result from the arrangement.

74. The leisure of the Collector, and his means of procuring information through the medium of his servants employed in the collection of the revenues and in his circuits round the districts, the opportunities which those circuits would give him of correcting errors or abuses in the police, are all in favour of the measure of placing that department under his superintendence. Added to these reasons, the employment of a numerous and respectable European agency in the internal administration of the country, appears to the Committee an object of moment, as it must tend to diffuse the influence of Government more extensively, and to introduce the lower ranks of society to an earlier acquaintance with the principles of the constitution bestowed upon them, and with the protection which it is calculated to afford to them against the oppressions of the more opulent.

75. For the reasons above stated, the Committee concur in the recommendation of the Judges and Magistrates of Masulipatam and Vizagapatam, that commissions

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commissions of the peace should also be granted to the commercial residents, whose duties, as they relate to the investment, being now defined by a Regulation, no apprehension is to be entertained that they will abuse the power which may be entrusted to them for the purpose of apprehending and committing offenders. It will not be necessary that either they or the Collectors should possess the power of inflicting corporal punishment, of levying fines, or of committing to temporary imprisonment: they should only be authorized to commit offenders for trial before the appointed courts; and as their conduct will, in every instance, be by this means brought under the cognizance of a separate tribunal, there can be little danger of a perversion of their authority to improper purposes.

76. If commissions of the peace are granted to Collectors and Commercial Residents, a remedy may be applied to the second defect which the Committee have noticed, and the labour of the courts of circuit may be greatly abridged, by empowering the Judge, Collector, and Commercial Resident, to hold once every quarter a sessions for the trial of offences, which it might be improper for the Magistrate to decide upon singly, but which might not be sufficiently important to require their postponement until the arrival of the court of circuit.

77. The senior servant might preside on the bench at the quarter sessions, which should be attended by the Mufty of the zillah court. Its proceedings should be conducted conformably to the general Regulations, and its sentences might extend to one year's imprisonment.

78. The calendar and proceedings of the quarter sessions should be submitted to the revision of the Judge on circuit, who should transmit the calendar, with any remarks which he might consider necessary, together with the usual returns of the court of circuit, to the court of Foujdary Adawlut.

79. The business of the courts of circuit would be by these measures considerably abridged, and the perpetration of crimes would be, in a great degree, checked by the presence of Magistrates in different parts of the zillah.

80. It will not be necessary to empower Collectors and Commercial Residents to call in the aid of the military. If the process which they may issue be disregarded or disobeyed, they should make an official report of the circumstances to the zillah Judge, accompanied by the documents on which they acted, and by the original or authenticated copies of the process which they issued; and if the Judge and Magistrate should deem it proper, he might support the acts of the Collector or Commercial Resident, by process under his official seal and signature. It should only be in support of the process of the Judge and Magistrate that the military should be called upon.

81. The foregoing paragraphs contain the principles of the system of police and of criminal judicature, which the Committee have considered to be best adapted for securing the tranquillity and protecting the persons and property of the inhabitants of the Northern Circars.

82. It will be observed, that while they have avoided a system of espionage, which could not be maintained without incurring an enormous expence, and is not less characteristic of a government unpossessed of the affections of its subjects, than it is calculated to excite and disseminate distrust and disaffection, they have endeavoured, in the plan which they have proposed, to divest the Zemindars of any real power which could be misused, but to leave to them their natural rank in the society of India. They have also had in view to weaken the influence of the Zemindars over the minds of their tenantry, by attaching to the latter a distinct responsibility, and drawing them into immediate communication with the Magistrate, in a point which they have been accustomed to regard as the peculiar province of the Zemindar.

83. The plan which the Committee have proposed professes, in fact, to unite all descriptions of people in preserving the peace, and to avail Government of their services, instead of establishing a distinct set of men, whose employment would be promotive of jealousy and distrust, and subject the Government to very great expense, and the people to much vexation.

84. But

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84. But the Committee do not profess to rely upon this system for defence, against the incursions of plundering banditti from the territories of the Nizam, which have afflicted the zillah of Masulipatam in particular. They do not consider the accomplishment of this object to be within the means of any system of civil police, but are of opinion, that the measures necessary for this purpose should be concerted with the Government of Hydrabad. These hostile incursions from the territories of a state in alliance with the Company, should be opposed and suppressed by the most summary measures, to which his Highness the Nizam would, it is to be hoped, offer no objection. Those measures should be carried into execution by the commanding officer of the district, and the exemplary punishment of those who might fall into the hands of the military, would perhaps deter others from following the same predatory course.

85. It should be the duty of the Zemindars and of their officers, and of all descriptions of people, to give the earliest intelligence of the approach of these parties to the Judge, Collector, or Commercial Resident, and the neglect of their duty should be punished by fine.

86. The system of police which has been above proposed for the Northern Circars the Committee consider equally applicable to the western zemindarries, and to the larger zemindarries under the zillahs of Ramnad and Madura. Where the estates are of smaller dimensions, and where the lands are retained under the personal management of Collectors, the head inhabitants of villages may still be charged with the responsibility proposed to be attached to them in the Northern Circars, and the duties prescribed to the Zemindars and their officers may be discharged by the servants of the Collector. The municipal institutions of the villages may, in either case, be preserved.

87. The great importance of the subject on which the Committee have the honour to address your Lordship in Council, has led to a reconsideration of it after the foregoing sheets were written, in order that every practicable means might be suggested, of removing the difficulties which might be considered to oppose the establishment of an active and efficient police.

88. Recent importunate events have marked in the strongest manner the necessity of infusing into the system which may be adopted, activity and vigour, qualities which can only be excited and maintained by the example, as well as by the authority of the Superintendent; and it is almost needless to remark, that such an example cannot be expected from the Judge, whose whole time ought to be dedicated to the business of the civil court.

89. Those events have impressed more deeply on the minds of the Committee the expediency of placing the superintendence of the police, where it has hitherto vested, in the hands of the Collector, both as a measure of policy and of economy; and they feel particularly solicitous that authority for the adoption of this measure should be obtained from the Supreme Government. With this view, the measures which the Committee have ventured to recommend for the improvement of the police, and for facilitating and expediting the operations of the judicial system in the trial and punishment of criminal offences, are submitted in two separate Regulations, in order that if the second should be considered to be an innovation which the Supreme Government may deem to be either premature or inexpedient, their approbation of the first, which regards the police only, need not be withheld.

90. The measures proposed by the Committee, if adopted wholly or partially, will occasion so great an alteration of the revenue and judicial establishments, as to preclude the possibility of accurately determining, at present, the amount at which they may be ultimately fixed. The revenue establishments are stated by the respective Collectors to be regulated upon the lowest scale; and as the responsibility of collecting the revenues rests entirely with them, the Committee would not recommend a further reduction, which might diminish their means below a state of efficiency. It is probable, indeed, that the placing the police under their superintendence may render necessary a small addition to their office establishments; but if the police corps are abolished, a considerable expense will ultimately be saved. This reduction should, however, be gradually carried into effect, lest a necessity for the immediate re-employment of these

these corps should be produced by the act of their sudden reduction. The Committee are therefore not prepared to furnish a general scale, by which the future expenses of the Revenue and Judicial departments can be regulated, as this information can only be obtained when a final determination shall have passed on the measures which they have suggested. The partial reduction which has been obtained in the Northern Circars is almost too trifling to be brought to the notice of Government. It will be seen, by a reference to the papers noted in the margin,* to amount to Star Pagodas 36 41 per month, at 443 34 64 per annum.

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91. The improvements to the public roads, or rather their entire new formation, and the other works of public convenience which have been recommended by the Judges of the several zillahs, are so numerous and extensive, that the consideration of them must be postponed to a future opportunity, which may admit of a diversion of a part of the public resources from their present appropriation. They may, perhaps, advantageously for the public, form subjects for the consideration of the quarterly meetings, when those works which may be most necessary may be selected, and submitted for the sanction of Government, and executed on the lowest scale of expense, under the superintendence of the Collectors.

92. It will be observed, that the foregoing sheets of this report do not contain any thing on the subject of supplying large detachments of troops with provisions. The Committee deferred the consideration of this subject, in the hope of receiving from an officer of ability and experience a plan for procuring supplies in the manner best adapted to facilitate military movements; but the want of leisure has disappointed their expectations, and their sentiments on the subject will be delivered under the want of that information which results from military experience.

92. Little difficulty is felt in procuring articles of consumption of any description, where the demand is regular and the means of supply open to competition. The difficulties which have been experienced in supplying troops on a march, have arisen chiefly, perhaps, from their sudden movement, and from the omission to furnish information of their march, in sufficient time to enable the local officers of the district through which their route lay to collect the necessary supplies before the arrival of the detachment in their respective districts.

93. The inconveniences arising from these causes will be obviated by the transmission to the several Collectors in the route of any detachment which may be ordered to march, of information of the strength of the detachment, of the time when it may be expected to arrive at the first station in their district, and of the nature and quantity of supplies which may be required for the troops. This information may be transmitted from the office of the Quarter-Master General or Assistant Quarter-Master General of the divisions of the army to the several Collectors, at the time of dispatching the orders for the march of the detachment.

94. If this plan, which the Committee have understood was intended to be submitted to your Lordship in Council, be adopted,† it would appear only further necessary to authorize the Collectors to purchase the supplies which may be required, and to direct them to transfer them at each station to the officer commanding the detachment, or to the officer who may be specially appointed to receive them, whose receipt, countersigned by the officer commanding, may be a sufficient voucher for the Collector to insert the disbursement on account of the supplies purchased in his accounts.

95. The issues to the troops and camp-followers will form a proper subject of military regulation, which it does not fall within the province of the Committee to suggest.

We have the honour to be, my Lord,
Your most obedient, humble servants,

M. DICK,
J. HODGSON,
T. B. HURDIS,
E. C. GREENWAY.

Fort St. George, 24 December, 1806.

* Letter to the Collectors of Ganjam, Rajahmundry, and Masulipatam. Letters from the Collector of Ganjam, Vizagapatam, Rajahmundry, and Masulipatam.

REPORT *of* COLONEL MUNRO, *Principal Collector in the Ceded Districts, Dated the 10th April* 1806.

To the Secretary of the Committee of Police.

SIR :

Colonel Munro's Report, 10 April 1806.

1. In my letter of the 4th October 1805, I stated the causes which would prevent my answering your letter of the 14th March last till about the present time. I have since used every endeavour, but without the smallest success, to discover whether there was anciently any general police system in India; and if such a system ever did exist, to ascertain the rules by which it was directed. As Bijinuggur or Annagoondy was the last great Hindoo state which fell under the dominion of the Mahomedan invaders, I thought that the present Rajah and his old servants were the persons the most likely to be possessed of the information which I wanted. On talking with him, however, I found that neither he nor they could throw any light on the subject; that the last remaining records of his ancestors had been consumed in the flames when Tippoo set fire to Annagoondy, in 1787; and that all that he recollected of them was, that one manuscript contained a list of the former provinces and revenues of his family. I sent people to Bijinuggur to copy all the inscriptions upon the old buildings and stones in the neighbourhood, thinking that some of them might be grants to police officers, and might explain their duties. I proceeded myself to Bijinuggur, and learned, on my arrival there, that not one of those inscriptions had any relation to the police. I called on the different Kawiligars for all their ancient sunnuds, in the hope that in those sunnuds might be found some elucidation of the nature of the offices for which they were granted. Only two among the whole were of so ancient a date as the time of the Bijinuggur Rayels; and though they detail at length all the allowances granted in land, money, &c., they say nothing of the duties which are to be performed. The sunnuds of the Mogul Government usually explained very fully the duties of the office which they conferred; but from what I have seen of the sunnuds of Hindoo princes, I am persuaded that if a complete collection could be made of all that ever were issued to police officers, they would merely shew what had been the allowances of such officers, and the revenue of the districts under their jurisdiction, but would give no insight into what had been their particular functions or their relative dependence on each other.

2. Finding that nothing satisfactory was to be obtained from sunnuds, I thought that there might possibly be some ancient writings in the Sanscrit, or other native languages, on the subject of police, but it appeared, after repeated inquiries among the most intelligent of the inhabitants, that none of them had ever seen or heard of such writings. All, therefore, that can now be known in this part of India, respecting the police of former times, rests upon the authority only of a few sunnuds and vague tradition. It is said that, under the Bijinuggur Rayels, the police was conducted by head Kawiligars, petty Kawiligars, and Talliars. The head and petty Kawiligars were appointed by Government: their offices were usually hereditary, but they were liable to dismissal for misbehaviour. The employment of the Talliar was the same then as it is now and has always been, and he was under the authority of the Kawiligar only in matters of police, and only at the time when search was making after an offender. The number of villages or districts assigned to the charges of the several Kawiligars was not determined by any fixed rule. The jurisdiction of some petty Kawiligars was limited to two or three villages, that of others extended to twenty or thirty, and that of a head Kawiligar often comprehended as many districts, yielding a revenue of some lacs of pagodas. About the middle of the sixteenth century, when Bijinuggur was taken by the Mahomedans, there were twenty head Kawiligars in the Ceded Districts, whose respective local jurisdictions are shewn in the Statement, No. 1, as accurately as they can now be ascertained. Though the petty Kawiligars were under the authority of the head one, they could not be removed by him; but if any of his villages were without petty Kawiligars, he could, in such cases, appoint them. The head Kawiligar kept guards of his own Peons in all great towns, and in all passes infested by banditti. He was exclusively answerable for all robberies

and

and murders in such passes, and jointly with the petty Kawiligars, for the safety of the persons and property of the inhabitants and travellers in all other places. He was, with them, answerable for grain in the fields and in pits, for cattle, and in fine for property of every kind, wherever kept. He was also answerable for the conduct of the petty Kawiligars, and was bound to report when he knew of their being concerned with thieves: for the purpose, therefore, of watching over them, and also of collecting his dues, he usually kept one or two Peons in each village; and when his districts were too extensive for his own immediate superintendence, he appointed Gomastahs, paid by himself, to the charge of certain portions of them. It was likewise his duty to observe the conduct of Zemindars, to give notice when he perceived that there was any design of exciting disturbances, and to join with his Peons the troops of the Sirkar in suppressing them.

The duties of the petty differed from those of the head Kawiligars only in being confined to a smaller range. The petty Kawiligar or his Peons attended at all fairs and weekly bazars to prevent thefts. He watched travellers during the night, whether they halted at the choultry in the middle of the village, or at that which is generally on the outside near the gate. When merchants having a number of bullocks halted for the convenience of pasture in the fields at a distance from the village, he repaired to the spot, and watched them as long as they staid, and when they departed he accompanied them to his boundary. In cases of murder it was his duty to produce the murderer; and in cases of theft, to produce both the thief and the property stolen.

3. When a robbery happened in any village, complaint was usually first made to the Potail and Curnam, who directed the Kawiligar to endeavour to discover the offender. As long as the search continued in the village where the robbery took place, the Kawiligar was accompanied by the Talliar; for it was chiefly on his assistance, and on his knowledge of the characters of all the inhabitants, that he depended for success. The Talliar began his operations by looking for the print of the robber's foot, and on finding it he measured it, and followed it in whatever direction it went: if to a house in the village, he seized the person whose foot corresponded with it; if to the fields, he traced it till it reached the boundary of the neighbouring village, where he stopped until he was joined by the Talliar of that village, to whom he shewed the footstep and that it had passed the boundary. The Kawiligar on being satisfied that the fact was so, dismissed the first Talliar, and continued his search with the second. If the robber was not found, he proceeded in the same manner, accompanied by the Talliars of the villages through which he passed, until he reached the limits of his own jurisdiction, where he waited until the arrival of the adjoining Kawiligar. When he had satisfied him that the robber had passed from his own boundary into his, he returned home, and the new Kawiligar continued the search. The Kawiligar within whose limits the robber was last traced was answerable for his apprehension, and for the making good the property stolen; but half, and frequently a greater proportion of the loss was borne by the head Kawiligar. The proportion of the expense to be defrayed on such occasions by the head and petty Kawiligar was regulated by their respective shares of enams, fees, and other sources of income. If they evaded indemnifying the sufferer for his loss, the Aumildar paid it to him by a stoppage from their fees. It does not appear that there was any period limited for the restoration of the property or its value, so that the owner might often have lost more time in waiting for its recovery than it was worth. If a petty Kawiligar made a practice of restoring the value of property stolen without discovering the thief, he was removed on the complaint of the head Kawiligar, and another appointed in his room. If murders frequently occurred without the discovery of the offenders, both the head and petty Kawiligar were dismissed.

4. The duties of the Talliar were of the same nature as those of the petty Kawiligar, but were limited to his own village. Though he was not bound to make good any part of the articles stolen, he was considered as the watchman of the village, and was so far responsible for the safety of all persons and property in it, that if theft or murder was committed without his being able to discover the offenders in his own, or to trace them to another village, he was liable to be punished by fine, imprisonment, or removal from office. The mode of

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of following the footstep seems to have been always the most common way of discovering offenders; but it is probable that it was formerly, as it is now, often resorted to as a deception, in cases where the Talliar was led to seize any particular person, either from a knowledge of his bad character or of his having actually committed the offence in question.

5. The police of towns was conducted in the same manner as that of villages, by the Talliars and Kawiligars, within whose limits they were situated. If a town stood upon the ground of two or three adjacent villages, the Kawiligars and Talliars of those villages were answerable for such parts of it as lay within their respective boundaries, and the head Kawiligar, instead of having only one or two Peons, as in the villages, kept guards in the towns of ten, twenty, or thirty men, in proportion to their size, population, and other circumstances. The security of the roads belonged to the Kawiligars and Talliars of the villages through which they passed, with the exception of a few jungles and ghauts, which were exclusively under the protection of the head Kawiligar, whose guards were stationed in them for that purpose: the police, therefore, of the villages, towns, and roads, was under the charge of Talliars, of petty and head Kawiligars, who again were all under the control of the Soubahdar or other officer entrusted with the management of the country.

6. The funds assigned for the support of the police establishment, as far as they can now be known, appear to have been very ample. The Talliar had the same enam lands and the same fees, in money and in kind, as he now enjoys. The petty Kawiligars' allowances arose from the following heads:—

1st. A village rent-free, or at a low quit rent.

2d. A certain portion of enam land in every village within his jurisdiction.

3d. Marah, or an allowance in grain upon each plough, or upon the quantity of seed sown.

4th. Wurtanah, or an allowance in money paid by husbandmen on ploughs, and by tradesmen on houses, shops, or looms.

5th. Moolvis, a small duty on goods passing through the country.

6th. Fusgui, a small duty levied at fairs and weekly markets, on shroffs in money, and on other dealers in kind.

The enam village was granted to the petty Kawiligar only in particular cases. His marah and wurtanah are supposed to have been nearly on the same footing as they have been in later times, and the rates at which they were collected to have varied in every village, from one fanam to twelve on each plough, house, shop, or loom. His moolvis, or duty on goods, was from one roowa to one pice per gonny: it was levied wherever the sirkar customs were levied, and was usually, to save the expense and trouble of a separate collection, rented to the custom farmer.

The allowances of the head Kawiligar consisted of:—

1st. A certain number of enam or rent-free villages.

2d. Portion of enam land in each village.

These two heads of enam villages and lands usually amounted to ten per cent. of the land, and sometimes to more.

3d. Marah.
4th. Wurtanah.
5th. Moolvis.
6th. Fuesgui.
} In the same manner as to the petty Kawiligar.

7th. Ten per cent. on the gross collection of the sirkar revenue.

7. The above is all that I have been able to gather regarding the police establishment under the Bijinuggur empire. The most intelligent of the inhabitants can give no account when Kawiligars were first instituted; whether the appointment of the petty preceded that of the great ones, or the contrary, or whether

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whether that of both took place at the same time: but the prevailing opinion is, that the petty Kawiligars have existed from the remotest ages, and that the great ones first arose during the government of the Bijinuggur Rayels. There appears, however, to be great reason to doubt that there ever existed any extensive regular system of great and petty Kawiligars. It is more likely that the system was always local and temporary; that it was usually adopted only in times of internal disturbance, or of some particular exigency; that it was suffered to fall into disuse when the necessity to which it had owed its creation was past, and that the village Talliars were the only general and permanent establishment of police officers. If the petty Kawiligars have ever been a general institution throughout a great part of India, they would probably have been classed among the village servants, like the Talliars, or have had their jurisdiction limited to a definite number of villages, or to a district or some subdivision of it: but they were neither village, district, or provincial servants, nor was the number of villages under their charge fixed by any rule. If they had been an ancient and a general institution, they would, like the village servants, have had many old sunnuds in their possession, and there would have been enams in every part of the country, either still in their hands or known to have once belonged to them: but they have very few sunnuds, and none that I have heard of so old as the Bijinuggur Rayels; and there are many considerable tracts of country in which they have not only no enams, but in which there is no tradition of their ever having had any. It may be collected from such sunnuds as are still extant, that districts and whole provinces were often without a head Kawiligar; that the office where it did not exist was occasionally created in favour of men who had rendered great services to the state; that it was sometimes abolished on their death or removal; that the offices of great and petty Kawiligar were frequently blended in the same person, and that therefore there could have been very little of that subordination or gradation of rank among the Kawiligars, which, had the system been general, would have been essential to its stability.

8. Notwithstanding the flattering accounts which many of the natives are fond of giving of the excellence of the police under the Kawiligars of former ages, I am strongly inclined to believe, both from tradition and from such documents as are still to be found, that the Kawiligars are not an institution of very ancient date; that they never were, at any one time, generally established throughout the dominions of any great Indian Sovereign; that they were frequently abolished, because they were found to be useless, expensive, and sometimes dangerous; that there never were properly two distinct ranks of Kawiligars; that the great and petty were originally the same; that what were called petty Kawiligars were not a separate institution, but were merely the descendants of the different branches of the family of the head Kawiligar, who, when he was dismissed, or his ten per cent. on the revenue resumed, were suffered to continue to enjoy the enam lands, marah, and other small fees in their respective villages; and that the village Talliars were the only permanent police establishment.

9. From the two accompanying copies of Sunnuds No. 2 and 3, issued by the Bijinuggur government, in 15 and 15, it will appear that the appointment of Kawiligar was usually granted as a reward for distinguished services, that it was created for this purpose where it did not before exist, and that no distinction was made of head and petty Kawiligar with respect to office, though there was a very great one in regard to emolument. By the first of these sunnuds, Timma Nair, a land or petty Kawiligar is, in consideration of his having saved the life of Alli Ram Raj, made manni or head Kawiligar of a number of districts, yielding a revenue of Pagodas 1,79,000: by the second, Yerram Nair, on account of some services which he had performed, obtains kawili miras of several districts. From both it seems evident, that the appointments were newly made, for the express purpose of rewarding the merits of the persons to whom they were granted; for had the offices been of old standing, and regularly kept up, either by inheritance or appointment, some notice would have been taken in the sunnuds of their having become vacant by the death or removal of the former Kawiligars, and instead of its being said that kawili offices had been conferred upon the new ones, it would have been said that they had been appointed to succeed to the vacant kawilis of such and such districts. Timma Nair's kawili

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is granted to himself and to his children in perpetuity; yet, in twenty-eight years after, a great part of his districts is given away to Yerram Nair. These districts must have been undoubtedly resumed before Yerram Nair received them. They could not have come to him by descent, for the families of both Poligars were totally unconnected with each other, and the descendants of both continue to hold to this day a small portion of their ancient enams. It is therefore clear from the above sunnuds, and it might be confirmed by many others of a more recent date, that the office of Kawiligar never was extensively established, but was occasionally abolished in one place and created in another, to answer temporary ends, and that it became permanent only when the weakness of the government enabled the Kawiligar to maintain himself by force of arms.

10. If other proofs were wanting, the high amount of the allowances to Kawiligars would alone be sufficient to evince that they could not have been appointed merely for the purpose of acting as police officers. The evidence of sunnuds and other documents, supported by the general belief of the country, leaves no doubt that the head Kawiligar received a commission of ten per cent. on the revenue, though in some cases only five per cent., besides enam villages and other allowances, producing an equal or even a greater sum. By the sunnud No. 2, twenty-three enam villages, yielding an annual rent of Pagodas 26,200, are granted to the Kawiligar, exclusive of Pagodas 18,900, his per centage on a revenue of Pagodas 2,25,000, making in all above twenty per cent. of the revenue of the districts under his jurisdiction; and by the sunnud No. 3, a tenth of the money collections, and a tenth of the land, amounting together to twenty per cent., are conferred upon the Kawiligar. It cannot be supposed that such enormous allowances could ever have been destined to be appropriated solely to police objects, more especially as the Talliars and other village servants must have rendered the employment of Kawiligars, as police officers, in a great measure unnecessary. I think it probable, on the whole, that the Kawiligars were originally something like the Foujdars under the Mogul government: that they obtained, like them, jageers and assignments on the revenue, as a reward for services, or for the maintenance of troops; and that, like them, they had the general superintendance of the police within their respective divisions, and kept guards in the principal towns and dangerous passes, for the protection of the inhabitants and travellers.

11. When the Mahommedan kings of Golcondah and Bijapoor had driven the Bijinuggur Rayels from the countries of which the Ceded Districts form a principal part, it appears that they at first, in some degree, adopted the kawili system, by continuing the old Kawiligars, and in some instances creating new ones, either in favour of persons by whom they had been aided against the Hindoo government, or of chiefs whose reduction being difficult it was deemed expedient to purchase their submission by the grant of a valuable office. They soon, however, reduced the rusoom, or commission on the collections held by the great Kawiligars, from ten to five per cent., and at the same time resumed a great proportion of the enam villages and lands. As they were hostile to the whole kawili system, they lost no opportuuity of lessening both the per centage and the enams, of forcing the Kawiligar to commute his allowances for a fixed sum much below their amount, and of stopping the whole wherever it could be done with safety. By these means the kawili per centage in the Ceded Districts, at the time of their conquest by Hyder Ally, had fallen from about Canteray Pagodas 2,42,010 to Canteray Pagodas 36,125, and the enams from about Canteray Pagodas 2,42,020 to Canteray Pagodas 97,158; and during his government the per centage was entirely done away, almost the whole of the enam villages resumed, and the enam lands reduced to about Canteray Pagodas 14,950, as exhibited in the Statement No. 4.

12. The police under the Mahomedan Princes before Hyder Ally, was conducted nearly in the same manner as it had been during the Bijinuggur government; but it was more relaxed, and had a great mixture of military force. The villages and roads were under the protection of the Kawiligars and Talliars; but the great towns, besides the usual police establishment, had always a considerable body of troops stationed in them to be employed in police duties. These troops were sometimes under a Foujdar, and sometimes under an Amildar,

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dar, independent of him; but in both cases, the means adopted for the apprehension of criminals, and the recovery of stolen property was the same. When a robbery happened, recourse was always had to the Kawiligar, or if there was no Kawiligar, to the Talliar. Though the Talliar was not bound to make good the value of the articles stolen, if he did not apprehend the robber, he was usually imprisoned, and sometimes punished or fined, because it was generally supposed, when discovery was made, that he was guilty either of neglect or connivance. The Kawiligar, whose allowances were only a bare subsistence, was treated in the same manner as the Talliar, but he who still retained a considerable share of his ancient allowances was called upon to make good the loss. This, however, was seldom done by the Kawiligar, unless the complainant had powerful friends. The greater Kawiligars having, through the weakness of Government, become nearly independent, paid no attention to the requisitions which were made for losses sustained by robberies within the limits of their Kawili jurisdictions, except when they found that a body of troops was likely to be sent against them; and, in that case, they seldom failed, by bribing some of the Sirkar officers, to get the expedition laid aside. They no longer regarded their per centage and enam lands as allowances granted for the performance of police duties, but as what it really was, the price of their forbearance from plundering openly; and they were so far from wishing to restrain the depredations of robbers, that they all, without exception, I believe, employed and protected them.

13. On the accession of Hyder Ally to the Mysore government, many not only of the head Kawiligars but of the lesser ones were expelled, and their enams resumed. The enams of the great Kawiligars were continued only where they had been so much subdivided among the different heirs as to have none of them more than a mere subsistence. These Kawiligars, as well as all the petty ones, who were permitted to remain in the country, were employed exactly in the same manner as Talliars in their respective villages. During the vigorous administration of Hyder, the police of each district was directed by the Amildar, having under him Cutwals and their Peons in all the principal towns, and Kutpuddi and Candachar Peons, or militia and fencibles, both in those towns and in all the fortified villages; but the real duty of the police was discharged almost exclusively by the Talliars. It was they who watched the property of travellers and of the inhabitants, traced and seized thieves and murderers, and gave information of suspicious persons. The Peons, on all such occasions, acted merely in aid of the Talliars, for they were intended rather for military than police purposes. The Talliars were not in any case expected to make compensation for goods stolen, but they were liable to corporal punishment, to fine or imprisonment, where there was any proof, and even when there was no more than a suspicion of negligence or connivance. The roads at this time were perfectly safe, robberies were uncommon, and the police, on the whole, was probably as well conducted as ever it had been in any province of India. Its efficiency was principally to be attributed to the reduction of the Kawiligars and to the personal character of Hyder, who compelled every officer under him to do his duty. Another great cause of it was the vast establishment of militia which he kept up, which by giving a livelihood to numbers of the poorer inhabitants and to all the former adherents of Poligars and Kawiligars, converted into quiet subjects many men who would otherwise have subsisted by their former occupations of robbery and thieving. The apprehension of his power secured his territories from the depredations of the banditti protected by the Poligars of the neighbouring states; for when any of them committed a robbery in his dominions, he never hesitated to make reprisal, by sending a detachment to drive off cattle, to burn grain, or even to attack the place to which the plunderers had carried their booty. He, however, notwithstanding his violence towards all the neighbouring Poligars who protected thieves, made no scruple to keep up a large body of them himself: their chiefs accompanied him in all his marches until his death: they were at liberty to plunder in all countries but his own, and for this privilege some of them paid him a share of the booty and others a fixed rent.

14. Tippoo discontinued this disgraceful mode of raising money, banished the chiefs, and afterwards put to death several of them who fell into his hands. His

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His police system, in other respects, was the same as that of his father, and for some years differed only in being less ably managed; but in the latter part of his reign, from the disorder of his finances, and the consequent disbanding of many thousands of his Peons, the return of a number of the expelled Kawiligars, and the general corruption of all his servants, robbery and murder were every where committed with impunity, and no traveller was safe.

15. The present police establishment is of the same nature as that which existed under the Mysore Government. It is composed of the village Talliars, of Cutwals and their Peons in the principal towns, of guards of Peons in a few of the most dangerous ghauts. Neither the great nor the petty Kawiligars in the Statement, No. 4, can now be regarded as police officers. Most of the great Kawiligars are Poligars, who were expelled under the Mysore Government, and all of them are pensioners receiving allowances from Government, either in money or land, not for any services to be performed, but merely to induce them to live in quiet, by leaving them no motive to plunder for a subsistence. The petty Kawiligars are also on the same grounds permitted to enjoy their allowances; but no useful service is or can be got from them, for they have been too little accustomed to subordination to obey the heads of villages, or even the Amildars, without compulsion. They are the remains of a race of men who have always been dangerous to the tranquillity of the country. It is, therefore, better that Kawiligars of every description should be regarded as pensioners, from whom no service is to be exacted, and that their lands, &c. should be gradually resumed on the failure of heirs.

16. The police duties of the country are at present discharged almost entirely by tke Talliars, who are assisted in the principal towns by the Cutwal's establishment, and every where occasionally by the Amildar's Peons. The Cutwals and their Peons are the only servants whose duties are confined solely to the police, but they can do nothing without the aid of the Talliars. There are no gradations of offices purely of a police nature. The Talliar acts under the Potail of the village, and the Potail under the Amildar of the district; but all these persons are at least as much revenue as police officers. The Talliar and Potail hold their offices by inheritance. They are not supposed to be removeable, unless for gross misbehaviour, and then the nearest heir ought to be appointed. The Talliar watches the property of the inhabitants and of all travellers, both in towns and villages: he makes good no losses, but he is so far answerable for them that he is obliged to discover the thief, or to shew that he does not belong to his village. If he fails in both these points, and it appears that his failure proceeds from want of exertion, his allowances are stopt until he makes the required discovery, or he is removed and another branch of the family appointed in his room. The Talliar watches suspicious persons and reports them to the Potail, who takes them up, examines them in conjunction with the Curnum, and reports them to the Amildar. The Talliar knows every house within the limits of his village, and the character and means of subsistence of every person residing in it. As he collects the house-rent as well as the other taxes of the village, he must necessarily know every house that pays, or is exempted from rent; and from the inquiries into the circumstances of the inhabitants, upon which the amount of the house-rent is usually founded, he becomes acquainted with their means of subsistence. By going round to collect the sirkar-rent, to demand his own fees, and to beg food at the full and change of the moon and other festivals, he visits every house several times in the course of the month, he observes when any person is absent, and if he thinks that there is no cause for his absence he watches his conduct, and from long habit he is so dexterous in forming his judgment on such occasions, that he can almost always ascertain whether or not the absentee had been employed in thieving. Mahomedan Phausigars, who live by robbing and murdering travellers, may sometimes remain undiscovered by the Talliar, because their scene of action is always at a great distance: often in the territory of a foreign power, when they give out that they had been employed in the army; and as this is actually sometimes the case, and is rendered probable by their long absence of one or two years, the Talliar is sometimes deceived by them. No other description of robbers or thieves residing in his village can elude his vigilance: if they remain undiscovered it proceeds from his connivance.

17. If,

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17. If, therefore, the Talliar is disposed to do his duty, and if he is supported by the Potail, there can be no necessity for any other police officers in the villages. The same may be said of the great towns, for the Talliars within whose bounds they are situated are answerable for thefts and robberies in them, in the same manner as in the villages. In all the great towns, besides the Talliars, there is a Cutwal's establishment, and the Peons of the Amildar's cutchery, so that the Talliars can always have help enough to seize offenders if opposition is expected. But I have never known an instance of resistance being offered in a town to the apprehension of a criminal: it is only in the jungle that resistance is ever attempted, and in all such cases the Amildar's Peons are sufficient to overpower the banditti, unless when they are composed of the armed followers of a Poligar.

18. The present police system is not so efficient as it ought to be. This, however, does not proceed from any defect inherent in itself, but from its having been perverted from its original purposes during times of disorder. A very large proportion of the Talliars are themselves thieves: all the Kawiligars are either themselves robbers or employ them, and many of them are murderers; and though they are now afraid to act openly, there is no doubt that many of them still secretly follow their former practises. Many Potails and Curnums also harbour thieves, so that no traveller can pass through the Ceded Districts without being robbed, who does not employ either his own servants or those of the village to watch at night; and even this precaution is very often ineffectual. Many offenders are taken, but great numbers also escape, for connivance must be expected among the Kawiligars and the Talliars, who are thieves themselves; and the inhabitants are often backward in giving information from the fear of assassination, which was formerly very common, and sometimes happens on such occasions. The escape of robbers is likewise facilitated by many of them being inhabitants of the territories of the native states, over which we have no authority, or of our own tributaries, over whom we have very little. Where crimes have long been encouraged by the weakness of Government, by the sale of pardons, and by connivance whenever persons of rank were concerned, no information can be looked for, but from the operation of time and the certainty of punishment. It is not by a large establishment of police Peons that order and security can be maintained, but by the vigour of Government, by its depriving of power all Poligars and Zemindars who harbour and encourage banditti. It is only by going to the root that the evil can be removed. The natives of India are, in general, industrious and inoffensive. Where they are addicted to robbery, it is to be ascribed less to their own disposition than to the relaxation of Government, enabling Zemindars to protect banditti and to consider their plunder as a source of income. If Zemindars and heads of villages are punished on conviction of such offences, the robbers whom they employ will by degrees betake themselves to some other occupation, and the frequency of crimes will gradually disappear before the power of a strong Government.

19. Though the Talliars are not, in the present state of things, sufficient to prevent robberies and to secure offenders, yet neither would the attainment of these objects be in any degree promoted by the creation of a separate police establishment. If, therefore, the Collector is to act as Magistate, I would think that all the duties of police might be adequately discharged by the Talliars, Cutwals, and revenue Peons, with some small guards of military Peons in the ghauts most infested by robbers; but if the police is to be placed under the Judge as Magistrate, he would require a separate police establishment, for the village one could never be efficient, acting under two different masters in matters of revenue and police.

20. The Collector ought, perhaps, to be the Magistrate, for he has more means of controlling the police, and of getting information, than the Judge can have. The Judge must depend entirely on a hired set of police officers, who having neither influence nor respectability among the inhabitants, are little qualified to procure the intelligence necessary for watching suspected persons, or for discovering and securing criminals. The Potails and Curnums, from their hereditary offices, as heads of villages, having authorized them immemorially to superintend the affairs of the village, to adjust all petty disputes, and to

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to seize and examine all disturbers of the peace, are regarded by the inhabitants as their immediate superiors, to whom all their complaints of theft, robbery, or murder ought to be addressed,* and to whom all their knowledge relative to suspicious persons ought to be communicated: they have hence greater facilities than any other persons can possess for preserving the peace of the country. These advantages are also increased by the assistance which they derive from the Talliar and other inferior village servants, and by the compleat knowledge which they themselves obtain of the characters and occupations of all persons within their jurisdiction, not only from residing among them, but likewise from registering them and collecting their rents and taxes. The influence enjoyed by the Potail and Curnum is the natural consequence of their situation, as the men first in rank, and often first in wealth, in the village, and cannot possibly, by any regulation, be transferred to the police officer. It may be said, that every benefit derivable from their influence and knowledge might be as fully secured through the medium of the Judge as of the Collector, by ordering them to report to the Judge on all matters connected with the police; but as this would be placing them under two masters instead of one, they would consider it as a hardship, and would discharge their duty both reluctantly and negligently. The Judge would have no check upon them, for he would scarcely ever be able to discover whether their conduct proceeded from carelessness or ignorance, and he would find it impossible to obtain any effective service from unwilling men. The Collector would meet with no opposition of this kind, because they have always been habituated to act under his authority in all concerns, whether of police or revenue. Their constant intercourse with him on account of revenue, enables them to report to him on objects of police without any extra trouble, and hence both convenience and ancient custom dispose them to act more willingly under him than under any other person. His authority, also, over the Talliars and other inferior village servants, and his continual communication with all the inhabitants on the business of their rent, afford him much greater means than the Judge of discovering and apprehending criminals, and of deterring the heads of villages from employing and screening them from justice. The establishment of revenue Peons in each district under the Tehsildar is another useful instrument in the hands of the Collector for police purposes; for as these men are always natives of the district, and usually hold their office for life, if not by inheritance, they become, from being all their life employed in the collections, well acquainted with the country and the inhabitants, and well qualified to give information of suspicious persons and to seize offenders.

21. As the Collector, therefore, in superintending the police has the united assistance of the districts and village servants, and of the inhabitants in general, he has more extensive and efficacious means of attaining its objects than any other Magistrate can possess. The duties of all the village servants, and even of the Talliar, partake as much of revenue as of police, and as they have always been and must continue to be under the revenue officer, they will never cooperate zealously with a police establishment directed by a Judge as Magistrate. However desirous the Judge and Collector might be to act together with the most perfect unanimity and cordiality for the public service, it would avail but little where a contrary spirit prevailed among all their subordinate officers: and this would certainly be the consequence of the appointment of a separate police establishment under the Judge. The habits of the people of India, always accustomed to see the revenue and the police directed by the same person, and the municipal constitution of the village founded upon that unity of authority, would make it impossible to separate the offices of Magistrate and Collector, without rendering the police utterly inefficient.

22. If the village servants would not discharge their duty properly under the Judge, it may be said that the same objection would not be against a body of police Peons, hired and paid by himself. Such Peons, it is probable, would render no service adequate to their expense. If they were so numerous as to be stationed at every village, they would be a most burthensome establishment. If they were few in number, and posted only at the principal towns, they would be of little use, for robbery and murder, and even theft, are less common in towns than in obscure villages, and on the highway at a distance from any habitation.

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habitation. These Peons, in tracing a criminal, would always employ the village Talliar; and they would therefore do no more than is now done by the revenue Peons of the Amildar. The Talliar and Kawiligar are undoubtedly the persons best qualified, by their local knowledge and habits of life, for discovering criminals, and if they always did their duty, hardly an offender could escape, and persons and property would perhaps be as safe as in any part of the world; but as they are often remiss, either through indolence or connivance, it becomes requisite that some person should be placed over them, in order to compel them to exert themselves. The Potail is their immediate superior, and his authority is frequently sufficient to produce the desired effects: if it is not, recourse is had to the Amildar, who sends Peons to assist. In those cases, when they fail in apprehending the criminal, it is not likely that the police Peons would be more successful; for as the only chance of taking him is through the means of the village servants or inhabitants, it cannot be expected that their co-operation will be so zealous with the police Peons, with whom they have little or no connection, and whom they do not perhaps see once in the whole year, as with the Amildar's Peons, who are at all times employed among them either as revenue or police servants.

23. If the police establishment is principally composed of hired Peons under a Judge, its care will probably be extended to European travellers and to towns in which Europeans reside, in a greater degree than to the more important object of the protection of the inhabitants and of native travellers. The Peons, with the view of recommending themselves, would be particularly attentive to Europeans; and while Europeans, with their baggage, passed through the country without accident, it would be generally supposed that there was an active police. The Judge himself, from the want of information, would often be deceived in this respect: and even if he had the same ample means as the Collector of procuring intelligence of the vigilance or negligence of the police with regard to the inhabitants, as he is not so immediately interested in their welfare, it is not likely that he would be so zealous in taking measures for their security. He will be actuated by the same sense of duty as the Collector, but he will not feel equally the interruption of trade and of the realization of the Revenue from the depredations of thieves and banditti, and it would therefore be in vain to expect that he would be so anxious about the tranquillity of the country as a man who has more motives to stimulate his zeal.

24. If the police is placed under the Judge, he will require an establishment of which the annual expence will be Star Pagodas 23,590, according to the Statement, No. 5. This establishment is intended solely for the out-stations, and is exclusive of that which must be attached to the Judge at the head station. The gradations of servants proposed by it are Moktessers or Darogahs, Muttasiddies, Duffadors, and Peons. A Darogah is allowed to one, two, or three districts, in proportion to their extent, population, &c. He ought to reside in the same town as the Amildar, because it is more convenient than any other for obtaining information and sending out parties of Peons to whatever quarter they may be wanted, and because the presence of the Amildars will deter him from fomenting disputes, with the view of receiving money privately from both parties. He ought to go the rounds of his districts three or four times a year. The Muttasiddy and Peons are to act entirely under his orders: the Muttasiddy as an assistant in keeping his records, and the Peons as watchmen. With the exception of the guards, all the rest of the Peons ought to remain with the Darogah at the cusbah. If they are dispersed in small guards among the villages, they cannot readily be assembled on any sudden emergency: they will become indolent and neglect their duty: they will excite litigations, lay contributions among the inhabitants, and prove a greater evil than that which they are meant to remedy. Of the Peons stationed at the cusbah, one-third ought to be continually employed in going the rounds of the district, visiting all the principal places, and paying particular attention to the villages and jungles where thieves are suspected to be concealed; and whenever one party of Peons returns to the cusbah, another ought to be sent out immediately.

25. The

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25. The Darogahs are allowed from fifteen to twenty-five pagodas per month, because a man qualified to superintend the police of an extensive district cannot be expected to serve for a smaller sum. If he does, he will certainly make up the deficiency by peculation. The allowance now proposed may not altogether obviate this mischief, but an allowance utterly inadequate would perpetuate it in every instance. The pay to the Peons is somewhat less than that which is now given to the military Peons; and as the police might be draughted from the present establishment of military Peons, no new expence would be incurred on their account. The above establishment, together with the village servants, is all that I think is necessary for police purposes. I see no objection to Regulation XXXV., 1802, or something like it, being extended to the Ceded Districts; and I have therefore, in conformity to the orders of the Committee, drawn up a short Regulation (No. 6.), which is little more than an extract from it. But police Peons alone are not sufficient to ensure the tranquillity of the Ceded Districts. They could do nothing in Adoni, Gorumcondah, and some other districts, where the followers of Poligars are numerous, and apt to resist the exercise of authority. In such places military Peons must still be kept together, in bodies of three or four hundred, for many years.

26. Under a Collector, it has already been observed that the village Talliars alone are equal to all police duties; and as they will also constitute by far the most essential part of the police establishment under any other magistrate, it is important that their number should be kept compleat, and that their ancient fees, which from a variety of causes may have been discontinued, should be restored. The Statement, No. 7., shows the number of Talliars in the Ceded Districts, and the amount of their enams and fees under the Mysore, and as they now stand under the Company's Government. The decrease which has taken place in their allowances since the beginning of the Company's Government, is Canteray Pagodas 1,291 6 9¾, arising partly from the resumption of unauthorised enams, but chiefly from the new custom regulations having deprived them of the fees which they formerly received from the farmers of the licences and customs. In Rachatti, Chinnore, and a few other districts, there are no Talliars, because they were in former times removed to make way for Kawiligars and their followers: but this defect has, since the expulsion of the Kawiligars, been supplied by the appointment of village Peons, who though not denominated Talliars perform nearly all the same duties; and as they enjoy enams, the number of Talliars wanting may easily be compleated, without any additional charge, by appointing those Peons to act as Talliars in their respective villages on their present enams. But besides the district having no Talliars, there are above fourteen hundred villages in different districts where the Talliars have no enams. and are subsisted partly by their fees and partly by charity; and there is also a great number of villages in which either the marah, or some other article of the fees, has long been abolished. From these causes, the allowances to Talliars is, in many places, inadequate to their subsistence. It ought not to be less than three rupees monthly to each Talliar: where it is below this sum, the difference ought to be made up; where it is more, it should remain as it is. In granting a proper allowance to Talliars, it may be questioned whether it would be most advisable to give it in land only, or in land and fees combined. I think that the mixture of land and fees ought to be preferred. I shall endeavour to explain the grounds of this opinion.

27. It is evident that the allowances to Talliars should be such as to afford them a certain livelihood, and that they should also be of that kind which may have the strongest influence in attaching them to their situations, and in making them cautious of forfeiting them by misbehaviour. The ancient custom of granting them enam lands seems to have been wisely founded in the knowledge that this kind of inheritance being dearer to them than any other, would also be more likely to render them anxious to preserve their situation by a zealous discharge of their duty. It may, however, be conjectured, that it was soon discovered that land alone was not sufficient to effect this purpose; that it came by degrees to be regarded as a private, instead of an official property; that the Talliars, by deriving no immediate advantage from the safety of the property of the inhabitants and travellers, had no particular inducement

to

to watch over it, and that it hence became necessary to allow them fees, which by yielding a constant and almost daily profit, might stimulate them to greater exertions for their own sake. This mode of maintaining them by a mixed allowance of land, of money, and of grain, is preferable to any other. An allowance in land alone would not ensure a subsistence to one half of the Talliars, because very few of them have the leisure and the means requisite for the proper cultivation of their land, and because many, either from idleness or poverty, do not cultivate them at all. This last, unless they had some other allowance besides land, would often rob for a subsistence. It frequently happens that the Talliar who is a laborious cultivator is but an indifferent watchman, and that he who is an idle cultivator is an active watchman, and it therefore becomes advisable that they should not be obliged to depend for their subsistence upon land alone. Land, however, ought to form always the chief part of their allowance, for even its lying waste does not diminish their attachment to it. They hold it in much higher estimation than any other kind of property; they consider it as more permanent; they think that though it is now waste it may hereafter be cultivated by their descendants, and they are proud of the right which it gives them of being ranked in the class of landlords.

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28. If their allowances were restricted to the fees on goods passing through the country, it would be always uncertain in its amount and unequal in its distribution, and in many places it would be totally inadequate to their subsistence; for there are numbers of villages through which very little merchandize, and others through which none at all passes, except the grain which they grow. The fees are willingly paid by the merchant for the security of his goods, and they are, even in the villages where the fewest pass, an object of consequence to the Talliar: they also give him a direct interest in watching the goods, which he would most likely otherwise neglect.

29. The allowance which the Talliars receive in grain on the ploughs or the crops of the farmers, and in money or kind on the houses of the other inhabitants, renders it their interest to watch over the whole property of the village; for if grain or any other article is stolen from one inhabitant, the rest usually withhold their respective contributions until satisfaction is given. These fees, however, could not without inconvenience be made to constitute the sole fund for the support of Talliars, because there are many poorly cultivated or desolate villages, in which its produce would not afford them a livelihood, and they would therefore be impelled, both by want and by the opportunities which such places always afford, to plunder travellers. But when their subsistence is not drawn from one source only, but from several, as at present, it is probable that if one fails the others will yield enough to place them above the necessity of robbing. The chief objections to fees are, that they are often undefined and liable to dispute, and that they are sometimes converted into an instrument for the obstruction of trade. Those paid by the resident inhabitants are so well known that the Talliar cannot easily get more than his due, but, on the contrary, is often forced to be satisfied with less; but those which are paid on the passage of commodities are not so well ascertained, and if a dispute arises, the traveller, as he has not time to wait, and is apprehensive that a refusal to pay what is asked may occasion his being robbed, usually submits to what the Talliar chuses to demand. These extra exactions are made principally from merchants, who seldom frequent that road, and whom the Talliar does not expect to see again: they are not often made from merchants who frequent it, because on their return they may complain and recover their money, and get him punished; and if they do not obtain redress, they may in future take another road through a neighbouring village, by which means he loses his customary fees. In many Poligar villages the Talliar has been accustomed to levy extra fees from merchants of every description; but wherever the authority of Government is fully established and their conduct inquired into, the dread of punishment, and of the diminution of their fees by the merchants taking a different road, will be sufficient to prevent any abuse.

30. I would therefore propose, that wherever there are no Talliar's fees they should be established at the following rates:

 1st. Marali,

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1st. Marah, or fees on the produce of the soil, one rovah, or one third of a pice value in grain, for every pagoda of land rent.

2d. Wartanah, or fees on houses and shops, two pice, or the equivalent in kind, on every pagoda of house rent.

3d. Moolries, or fees on goods passing through the country, one rovah at each stage or halting place on every bullock-load of grain, and two rovahs on every bullock-load of all other commodities.

Wherever there are established fees, whether more or less than the above rates, they may be continued as at present.

31. The heads of castes are not answerable for the members of the caste; neither would it be possible, nor in many instances even desirable, to make them so. The Beder is the caste by which the greatest number of crimes is committed. It is numerous and formidable to the more industrious inhabitants, and it would become still more dangerous were the influence of the heads so much increased as to enable them to control and direct the subordinate members. The same thing would happen among all the other castes most given to the commission of crimes; every addition to the authority of their head-men would be used only for bad purposes.

32. The castes among which crimes are most common may be arranged as follows, under the heads of the particular crimes to which they are respectively most addicted.

1st. *Phausigurs*

Are a class of robbers who always murder before they rob, by casting a noose, from which they derive their appellation, round the neck of their victim. They are all Mussulmen, and chiefly cotton cleaners, weavers, and tumblers by profession.

2d. *Murderers and Highway Robbers.*

1st. Beder,
2d. Kubbiar,
3d. Dher and Chumbar,
4th. Lumani or Bunjari,
5th. Yerlur or Yanadi,
6th. Korwar.

3d. *House-breakers.*

1st. Wuddiwars or Tank-diggers,
2d. Corchiwar,
3d. Korwar.

Other castes seldom are guilty of house-breaking, except in conjunction with the above.

4th. *Coiners and Sharpers.*

1st. Tetug Baljiwar,
2d. Mussulman,
3d. Silversmiths, blacksmiths, carpenters, stone-cutters, and braziers, or the Fivemen as they are called.

5th. *Cutpurses.*

1st. The Fivemen above mentioned,
2d. Corchivar,
3d. Wuddiwar or Tank-digger,
4th. Mussulman.

6th. *Cow-stealers.*

1st. The four classes of cutpurses above,
2d. Lumani or Bunjari.

The trade of the Phausigur and coiner is often hereditary; that of the thieving Corchiwar is always so. There are many persons settled in different

parts

parts of the country who are known to have been formerly Phausigurs or coiners, but who, though they confess the fact, pretend that they have not acted as such since the beginning of the Company's government. There is, however, little doubt that most of them still pursue their old trade; but it is difficult to prove it, because they usually act at a great distance from home. The thieving, or the kullar or mootch Corchiwars as they are termed, according to the prevailing dialect of the district, are every where found scattered over the country, and it is by them chiefly that depredations are committed on property; they live mostly in tents, and go about the country with buffaloes and asses, carrying a few loads of salt or grain; but this is merely an artifice to pass themselves as dealers in those articles, for they subsist by thieving alone, and from long practice they are so hardened that it will be very difficult to reclaim them. By their living in tents and having no visible means of livelihood, they are always perfectly well known to the Talliars and heads of the villages where they usually halt on their return from their excursions; and to secure their protection and connivance they are obliged to give them the greatest part of their booty, so that they are always poorer than the lowest labourers, and are consequently forced to renew their excursions without ceasing, in order to save themselves from starving. If an order was issued throughout the country to apprehend and confine them, it would do more in putting a stop to theft and robbery than any police regulations could effect in a long course of years; but as the adoption of such a measure, without any previous attempt to reform them, would hardly be justifiable, it would be proper that they should first have a fair trial. The Collector should be authorised to take them up and settle them in certain villages, to give them lands at a low rent, to give them tuckavi for the purchase of agricultural stock, to prohibit them from going beyond the limits of the village without a pass, and to confine and employ in hard labour all who should act contrary to this order: he should also be authorised to treat all other vagabonds in the same manner.

33. There are no fixed rates of hire among the natives for artificers, labourers, coolies, or bullocks: they vary in every part of the country, according to the demand and the season of the year.

The hire of a common artificer is usually	6 pice per day.
Ditto of a mastry artificer..................	12
Ditto of a labouring man	5 to 6
Ditto..................woman or boy	3 to 4
Ditto of a travelling cooley	8 pice per 10 miles.
Ditto of a loaded bullock	3 to 4 fanams per 10 miles.

The rates never vary so much as to cause any inconvenience; and it is better that they should be left as they have always been, to be regulated by the mutual wants of the parties, than that they should be fixed by law.

34. The rates of hire, and the prices of a few necessary articles of provision, are fixed for European travellers, but in no other case. The prices were settled in conjunction with the principal inhabitants, and are entered in the Statement, No. 8. They are intended only for travellers, to prevent violence on the one hand and imposition on the other: they could not be extended to bodies of troops without distressing the inhabitants. When detachments pass they are supplied at the bazar price of the day, which is every where left perfectly free to rise or fall, according to circumstances. No difficulty is ever met with in procuring all necessary supplies for the largest detachments, and any regulation on this subject would be superfluous.

35. There is a sufficient number of villages on all the high roads for travellers and detachments to halt at, and they are in general so near to each other that the usual stage may be shortened or prolonged, as may be found most convenient from the nature of the weather or the state of the roads. Detachments do not always halt at the same stations; but a list of those at which both they and travellers most commonly halt is contained in the paper, No. 9, and as experience has shewn those stations to be more commodiously situated than any others, it would not be advisable to alter them.

36. There are choultries at most of the villages on the high roads; and though they are not calculated for the accommodation of Europeans, they answer tolerably

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rably well the purpose for which they are intended, of sheltering native travellers and their goods. As the only Europeans who visit this part of the country are military men, and as they are allowed tents, it cannot be necessary to build choultries on their account: it will be enough for every useful purpose, if choultries adapted to the convenience of native travellers and merchants are erected at all places where there either are none or where they are too small. The Statement, No. 9, shews the number and description of choultries at all the usual halting places on the principal roads. None of them are to be compared to the buildings of this kind in the Carnatic. What are called stone choultries are in general nothing more than the gateways of small pagodas, seldom above ten feet square, and often so low that a person can hardly stand upright in them. There are very few tiled choultries, because the construction of a Malabar roof is not understood by the workmen of the Ceded Districts. The most common form of a choultry is a low, narrow building, with walls and floor of mud and a terrace roof of the same material. These buildings, though sufficiently inconvenient from their smallness, are rendered still more so by many of them being a kind of private property; for having been constructed by the contributions of particular castes, none but individuals of those castes are permitted to enter them, so that in many villages where there is a good choultry or mult for Lingwunts, there is no place for travellers of another caste. I have therefore, in the Statement, specified the places where, either from this cause or any other, choultries of general accommodation for all castes are most immediately wanted. The number proposed is sixty-four, and the expense of erecting them will vary from Star Pagodas 15,435 to Star Pagodas 17,048, according to the nature of the materials employed. If they are built with walls and floor of stone and chunam, and a chunam terraced roof, the expense will be Star Pagodas 15,435; if the walls and floor are stone and chunam and the roof tiled, the expense will be Star Pagodas 17,048; if the walls and floor are of mud and the roof tiled, the expense will be Star Pagodas 16,128. Tiled would be much preferable to terraced roofs,* because they are cheaper, and could easily be constructed with the help of a few mastry artificers from the Carnatic and Barramahl: the walls might be of stone in the large trading villages, and of mud in the smaller ones.

37. The paper, No. 10, contains a list of the revenue servants employed in the Ceded Districts and their monthly pay. The whole of the revenue servants may be comprehended under the two heads of the Collectors or division cutchery, and the Amildars or district cutchery establishments. The cutcheries of the principal and of the three subordinate Collectors being composed of exactly the same descriptions of servants, an account of one cutcherry will answer for all the rest.

38. The duties of the Collector's cutchery are performed by Serishtadars, Cash-keepers, Moonshees, English writers and Shroffs, for all the remaining servants are merely their assistants.

39. The Serishtadar is the head servant of the cutchery, over which he has a general control: he is also the head accountant and keeper of all the records. He makes the settlements under the Collector, and their being well or ill made must always, in a considerable degree, depend upon his integrity and ability; for whatever attention the Collector himself may bestow upon the subjects, his settlements will be very incorrect, and the assessment will seldom be distributed according to his directions, unless he is assisted by the judgment and personal superintendance of an experienced Serishtadar. Two Serishtadars and two deputy Serishtadars are employed in my cutchery; because, from the great extent of the division, the survey and annual settlements could not be carried on at the same time with a smaller number.

40. The Cash-keepers have the charge of the treasury. They keep the accounts of all receipts and disbursements; they compare at the end of the year with a Gomastah from the Amildar of each district, the receipts of current and extra revenue, and the ordinary and extra disbursements, but more particularly those

* The tiled choultries, though they appear to exceed the terraced ones in expense, yet they are above one-third larger from having a greater interval between their pillars.

those for tank-repairs, and all balances due to the treasury, whether arising from overcharges for such works, or for servants not present, are then recovered. The currency of the Ceded Districts, comprising above forty different coins, renders the keeping of the treasury accounts a business of great labour. As I hold the Serishtadars responsible for all deficiencies in the treasury, I leave to them the appointment of the Cash-keepers, and they usually employ either one of their own relations, or some other person in whom they have perfect confidence.

41. The Moonshees are the Collector's Secretaries: they conduct all his correspondence in the country language with the native servants and inhabitants. They ought to be something more than mere scribes; they ought to be well versed in all revenue details; for if they are not, the orders which they write will often be unintelligible to the persons to whom they are directed.

42. The business of the English writers requires very little explanations: it consists in copying letters and accounts for the public departments, and such other statements as the Collector may deem it necessary to have in English for occasional reference.

43. The duty of the Shroff is to count all money received or paid away, and to reject all bad coins. He is answerable for deficiencies occasioned by bad coins and by mistakes in counting, but not for malversation, because it cannot be committed without the concurrence of the Cash-keepers, and for them the Serishtadars are liable.

44. All Gomastahs may be comprehended under the general name of assistants. As there is hardly any branch of revenue duty that can be executed by a single person, the principal officer of each has always a certain number of Gomastahs: thus the Serishtadars, Cash-keepers, and Shroffs have their respective proportions of them.

The duties of Golars, Peons, Mashatchies, &c. are two well known to demand any particular explanation.

45. The district or Amildar's cutchery is formed of nearly the same descriptions of servants as that of the collector. The principal are the Amildar or Tehsildar, the Peshkar, the Serishtadar, the Gomastahs, and the Moonshee.

The Tehsildar is in a small district something like what the Collector is in a larger one: though he does not himself make the settlement of his district, the knowledge which his residence on the spot enables him to acquire of the state of cultivation and of the circumstances of the inhabitants, is often the best guide to the Collector in forming it. He directs and promotes the cultivation of his district, by going round at the proper season and settling the village disputes, by which it is often obstructed, and distributing tuckavi judiciously to the poorer Ryots. After the village settlement has been made, he makes the Ryotwar settlement, when there is not time to do it in the Collector's cutcherry. He collects the revenue of the district, and hears and determines all petty causes which the parties do not chuse either to settle by arbitration, or to carry to the Collector.

46. The Peshkar is a deputy who is allowed to the Amildars of the larger districts only. He remains at the cusbah when the Amildar goes upon a circuit, and he performs, in general, all those duties which the Amildar has not leisure to attend to personally.

47. The Serishtadar is the Register and Accountant of an Amildar's district. He is subordinate to the Amildar, but is at the same time individually responsible for the regular transmission, and for the correctness of the accounts.

48. Of the district Gomastahs the greater part are employed under the Serishtadar; the rest act as assistants to the Amildar in the business of superintending the cultivation and collection.

49. The Moonshee is the Amildar's secretary, and has the charge of his correspondence with the heads of villages, &c.

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50. The above are all the different denominations of servants that for some years composed the revenue establishment of the Ceded Districts; but the introduction of the system of Amani customs has of late occasioned a considerable addition to it, by the formation of a separate class of custom servants. This class is composed of Peons and Gomastahs at the different chowkies, for collecting and registering the duties; and of a head custom cutcherry with each Collector, for the purpose of arranging and forming into a whole the accounts received from the several districts. The servants at the chowkies are under the authority of the Amildar of the district in which they are situated, and the head custom cutcherry form a part of the Collector's own cutcherry, and are under the control of his Serishtadars.

51. In the Ceded Districts the estimated expense of the Collection of the customs was in 1214 eighteen per cent., while that of the other branches of revenue was only six per cent.: but there is no possibility of diminishing the custom charges without a much greater proportional abatement in the receipts. If the list of servants is inspected, it will be found that their pay individually is low, and that their expense proceeds from their number; but the number must always depend more upon the extent of the province, and especially of the frontier, than the amount of the duties. The Ceded Districts, from having Kurnoul projecting into the centre of them, and from being surrounded on three sides by foreign territories, have a frontier of between six and seven hundred miles in length to guard; and as this frontier is all, except on the side of Cumbum, perfectly open, it became necessary to station many Peons at places where there is not a rupee of duty collected, but merely to prevent goods from passing clandestinely: and as this object has not yet been fully attained, it will be expedient rather to augment than to lessen the Peon establishment.

52. If the detailed statements of the different articles on which the duties are levied could be dispensed with, the whole of the head custom cutcherries might be abolished. But as the saving would be only four thousand two hundred pagodas, it will scarcely be thought advisable, for such a sum, to discontinue the detailed custom accounts, and to relinquish with them the only means of acquiring an accurate knowledge of the inland trade of the country.

53. With respect to the establishments forming the Collector's and Amildar's cutcheries, I am of opinion that the number of the inferior, and the pay of the superior servants, is too small. The estimate for those establishments, and for sader warid, on account of fusily 1215, reckoning the revenue at Pagodas 16,50,000, was 5 19 70 per cent. To answer the ends of discovering and bringing forward the actual produce of the revenue, and of making the situations of the principal servants respectable and independent, it ought to be at least six and a half per cent.

54. In districts where the ryotwar system is followed, it is obvious that the accounts will be much more in detail, and that a greater number of Gomastahs or accountants will be required, than in those where the settlements are made by villages or larger estates. In a ryotwar settlement, the chief source of the defalcation of revenue is the Curnam's suppressing in his accounts a portion of the cultivated lands, amounting to from one to five per cent. Where there is a deficiency of Gomastahs, this loss cannot be prevented by the Amildar; for he can personally investigate the cultivation of only a very few villages, and he must take that of the rest upon the Curnam's reports: but when he has the requisite number of Gomastahs, he may, by employing them in those villages which he has not leisure to examine himself, either put an entire stop to, or reduce the concealment of cultivation to almost nothing. The reduction of expense, therefore, by a reduction of Gomastahs, though a plausible measure, must always be productive of real loss. The saving is seen at once, while the loss of revenue is not at all apparent, and can be perceived only after a minute investigation. It may, however, be asserted with confidence, that it is not less than three per cent., while the difference of expense between a defective and a full establishment of Gomastahs not one-half per cent. But the number of Gomastahs and other inferior servants, however great, can be of little use, if the principal servants, either from the inadequacy of their allowances, or any cause, commit abuses themselves and connive at those of every person under them.

them. When this is the case, the loss of revenue cannot easily be estimated; but it is probable that, in many instances, it has been greater than ever it has been discovered, or even supposed to be.

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55. As there is a general combination, down to the lowest village servant, against the Collector, it is not easy for him to learn what is going on, and when he has made the discovery, he perhaps only removes one set of servants to employ another, equally corrupt; and hence, in order to prevent their falling into similar practices, he is forced to act rather as a spy over them than as the superintendant of the province committed to his charge. Of about a hundred principal division and district servants who have acted under me during the last seven years, there have not been more than five or six against whom peculation to a greater or small extent has not been proved.

56. The remedy for this evil is the same here as in other countries: it is to place them above the necessity of betraying their trust, by giving them higher allowances. I do not say that this would effect a reform all at once; but it would soon make a very sensible change, and would in time render them trustworthy, by showing them that they had an interest in being honest. I do not attribute their want of integrity in public situations to any innate depravity of character, but to causes which, under similar circumstances, would urge the public officers of any other country to act in the same manner. They are under the dominion of foreigners, and by being so they sink in their own esteem, and lose that pride which has often a great influence in stimulating men to an upright conduct. They have allowances which are no more than a bare subsistence; and small as they are, they are precarious, for they cease on the appointment of a new Collector, who always brings in a new set of servants: and they are placed in situations of great responsibility, where malversation is always easy, and detection extremely difficult, and even when made seldom extending to one-half of the abuse. If, with such strong temptations to fraud and so little inducement to honesty, we should expect from the revenue servants of India a conscientious discharge of their duty, we should expect from them what has never been generally found among any body of public men similarly situated in any country on the face of the earth.

57. The granting of adequate allowances to the principal servants would add but a trifle to the public expenditure, which would be greatly over balanced by the augmentation which revenue would receive by their exerting themselves zealously to bring forward, rather than to conceal, its actual produce. The difference which would be made by employing able servants, rendered zealous by liberal allowances, instead of the same men on the usual pay, would not be less than eight or ten per cent. in favour of revenue: and this increase would be realised without any perceptible addition to the burdens of the people, because a great share of it had always been formerly drawn from them privately. The difference would not be so great in a district permanently settled; but even there it would be considerable, for the management of aumani lands and the remissions for bad seasons, &c. will always furnish abundant means of embezzlement.

58. Though the increasing the allowances of the head native servants is, no doubt, expedient as a measure of finance, it is entitled to attention upon a more enlarged scheme of policy. They cannot, it is true, be permitted with safety to hold the rank and influence, but it would be no more than justice to allow them to enjoy some share of the emoluments which they always possessed under the Hindoo and Mahomedan governments. By showing them more indulgence in this respect, we should conciliate their attachment, and secure, through their influence, the fidelity of all the lower classes of the people. It is a mistake to suppose that the higher orders have any regard for the Company's Government, for they would prefer that of any native power, Mussulman or Hindoo, because under such governments they cannot only acquire great wealth, but fill the highest civil and military offices of the state; and though they are sometimes stripped of a great part of their property by arbitrary exactions, and deprived of liberty and even life on the most groundless pretences, they think the prospect of riches and distinctions, with all its attendant dangers which the service of the country powers offers, is much more eligible than the humble but safe

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safe mediocrity which that of the Company affords. They have no interest in the stability of the British Government, and all therefore who are out of employment, as well as a great proportion of those who are in office, are in every war anxious for the success of the enemy, and ready to assist them with their influence as far as it can with prudence be exerted. It may be said that the British Government have conferred many benefits on their Indian subjects, and it may be inferred that they are grateful for them. This is true with respect to the merchants, manufacturers, and cultivators, who look to nothing beyond their own occupations, and wish only to be allowed to pursue them in tranquillity: but the attachment of such men is of little importance, while the Bramins, by whom they will always be led and directed, are dissatisfied. The benefits, it must be confessed, are rather of a negative than positive kind. They consist chiefly in the permanent assessment of the land rent, the protection of property from undue exactions, and the security of persons from imprisonment or punishment, unless in cases defined by the law. But these measures required no sacrifice on the part of Government: they are as much calculated for the prosperity of the revenue as of the inhabitants, for though an over-strained assessment may raise a large sum for a few years, a fixed assessment will raise the largest sum for a long period. Violations of private property would tend to diminish revenue, and no end could be answered by retaining the power of arbitrary punishment; because of the two motives which usually lead to it in the neighbouring states, one of them, the extortion of private property, would injure revenue; and the other, private enmity, can hardly exist between two classes of men so unconnected as the Company's European servants and native subjects. The natives of India set but little value on civil privileges: they seldom think of them, except when they are violated in their own persons; and they consider imprisonment itself not only as no disgrace, but scarcely as a hardship. It cannot, therefore, be imagined that the Bramins can look upon such general privileges as any compensation for what they have lost, by the country's being under an European instead of a native government, where all emolument and power would have centered in themselves. But a Regulation, which by annexing higher allowances to their official situations should enable them to live more in the style to which they have been accustomed, and which should occasionally grant titles of honour for faithful or distinguished services, would be felt and acknowledged as a real benefit, and would secure their attachment to the Company's Government. If their allowances were such as to render them independent after a reasonable length of service, there would soon be found in every district, and almost in every village of the country, some respectable Bramins living at their ease on what they had acquired while in office. Such men would prefer the Government to which they owed their prosperity to any other, not only from gratitude but from the consciousness that they would be the first victims of plunder in a change. Their influence would be great, and would always be exerted in support of order. No plan could be formed in their neighbourhood for exciting disturbances without their knowledge, and their weight among the inhabitants would be more efficacious than the exertions of an army of police officers, either in discouraging or in bringing to light every design hostile to the internal peace of the country.

59. The scale of allowances to the native revenue servants seems to have been framed, with a very few exceptions, upon the principle of getting the work done at the cheapest possible rate. But though economy is, to a certain degree, commendable, that parsimony can never be advisable, which denies to men in responsible situations the fair reward of their services. It is surely a degrading spectacle to contemplate a great and civilized people fallen under a foreign dominion, with the first men among them not only excluded from all power, but reduced in salary, even in the highest offices which they can hold, nearly to the level of domestic servants. Power cannot be given to them; but this loss may be made up to them in some other way: and the dictates of a prudent, as well as of a generous policy, demand that they should be allowed a more liberal compensation for administering the affairs of a great revenue which is drawn from their own country. The Statement, No. 11, shows what I think those allowances ought to be: No. 10 shows what they now are. The difference is about one per cent. upon the gross revenue. The addition is chiefly in the pay of the principal servants. Amildars are allowed from twenty-

five

five to one hundred pagodas per month; Collector's Moonshees and Treasurers twenty to sixty, and Serishtadars eighty to two hundred and fifty pagodas: for it does not seem to me too much to suppose that there may be situations of extensive trust and difficult management, in which the services of a native of India may entitle him to £100 per month.

Colonel Munro's Report, 10 April 1806.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) THOS. MUNRO, Collector.

Anantpoor, 10 April, 1806.

EXTRACT REPORT *from* COLONEL MUNRO *to the* BOARD OF REVENUE,

Dated the 15*th August* 1807.

Colonel Munro's Report, 15 August 1807.

Par. 20. But whatever mode of settlement may be finally adopted, the inhabitants, but particularly the Ryots, must suffer great inconvenience, and even distress, from the judicial Regulations as they now stand. The evils which they are likely to increase, rather than to diminish, are delay, vexation, bribery, wrong decision. The delay will necessarily arise from the forms, which not only the Judge, but the native Commissioners, must adhere to in their proceedings; and from all the principal, and a great part of even the petty suits, being brought before the Judge. This delay is not to be estimated by the number of causes which may, at any period, remain undecided; because there may be a still greater number kept back, and never brought into court at all, from the parties despairing of ever getting them adjusted there. In petty suits, the Judge may dispense with the making the depositions of witnesses a matter of record; but it does not appear that this power is extended to Commissioners. It would, perhaps, be better that it should be so, in order to expedite decisions; for justice can hardly be said to be administered, when it proceeds so slowly, as not to keep pace, in any degree, with the demands of the country.

21. All classes of the inhabitants will be exposed to great vexations, from being liable to be summoned to the zillah court stations in every trifling suit, and to be detained there a long time; but the Ryots will be the greatest sufferers, because by being called away to a great distance from their villages during the season of cultivation, they will often be exposed to a heavy loss in their crops, from the seed not being sown at the proper time. Many of them would rather pay a small sum, even though it were not justly due, than be obliged to leave their farms at so important a period. It would be a great relief to them to obtain an interval, from the middle of May to the beginning of October, during which they should not be compellable to attend the zillah court, or to be absent more than two days from home, upon the summons of any Commissioner. This would, no doubt, retard the business of the court at its principal station; but the court, instead of remaining fixed, might, at this time of the year, be at least as well employed in making a circuit of the zillah, by which the Judge would be enabled to learn the conduct of the Commissioners, and to hear and settle appeals from their decisions upon the spot.

22. Bribery will be more general than formerly; because the distribution of justice being in the hands of fewer persons, concealment will be easier; and because those persons being worse paid will be more open to corruption. The native Commissioners will not have allowances equal to those of Tehsildars; their proceedings will be more private, as they will not be watched by the numerous servants of a district cutchery, and they will, therefore, have both a stronger inducement to betray their trust, and a greater facility in eluding detection.

23. Erroneous decisions will be more frequent, because almost every suit, instead of being determined, as heretofore, by a Punchayet, will come before the Judge, who, however intelligent he may be, cannot be half so well qualified as a native jury to appreciate the characters of parties and witnesses, and to distinguish between true and false evidence. There is such a strange mixture of

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of fraud and honesty in the natives of India, and even in the same individuals, in different circumstances, that none but a native can, on many occasions, penetrate the motives from which such opposite conduct arises. The numerous petty dealings constantly going on, with comparatively very few disputes, the frequency of depositing money and valuable articles without any kind of voucher, and the general practice of lending money without any receipt or document but the accounts of the parties, manifest a high degree of mutual confidence, which can originate only in a conviction of the probity of each other. But, on the other hand, every native will perjure himself. In every litigation respecting water, boundaries of villages, and privileges of caste; in all these cases, he never speaks the truth, unless from the accident of its being on the side which he conceives himself bound to espouse. He will also perjure himself (not uniformly, indeed, yet with little hesitation) in favour of a relation, a friend, or an inhabitant of the same village; and even of persons in whose welfare he has apparently no concern. These causes, added to bribery, render perjury so common, that scarcely any dependence can be placed upon evidence, unless where it is supported by collateral proofs. The number of witnesses, and even their general character, is therefore of less consequence, than an acquaintance with those particulars, customs, and prejudices, by which their evidence is likely to be biassed. The Judge must always be inferior to a native in knowledge of this kind: he will, likewise, be deficient in language; he never can be so much master of it as to follow and detect the minute points, by which truth and falsehood are often separated. The voice of a witness, the manner, the mode of expression, the use of words of a less positive, though often similar sense, all these must be beyond the reach of an European, whose knowledge of an Indian language can never extend to such niceties. The Judge must, therefore, often require explanation from the officers of the court, and trust to their opinion. Where he forms a wrong one, there is little hope of his being enabled to correct it from any arguments that may be adduced by the pleaders; for these men will most probably agree among themselves, and divide all fees, and care very little which of the parties in a suit is successful.

24. It is to be feared that no complete remedy for these evils can be found; but the most effectual one would be to resort to the trial by jury, termed by the inhabitants punchayet or subba, according to their respective languages. The judicial code, in civil cases, authorizes trial by referees, arbitrators, and Moonsifs, but says nothing of trial by punchayet. It seems strange that this code, which has been framed expressly for the benefit of the natives, should omit entirely the only mode of trial which is general and popular among them, and regarded as fair and legal; for there can be no doubt that the trial by punchayet is as much the common law of India in civil matters, as that by jury is of England. No native thinks that justice is done where it is not adopted; and in appeals of causes formerly settled, whether under a native government or under that of the Company, previous to the establishment of the courts, the reason assigned, in almost every instance, was that the decision was not given by a punchayet, but by a public officer, or by persons acting under his influence, or sitting in his presence. The native who has a good cause always applies for a punchayet; while he who has a bad one seeks the decision of a Collector or a Judge, because he knows that it is easier to deceive them. It may be objected, that a punchayet has no fixed constitution; that the number of its members may vary, from five to fifty, or even more; and that its verdicts are often capricious. But all these objections formerly lay against juries, and they might unquestionably be removed from punchayets by future improvements. The native commissioners are so much restricted, and their proceedings so liable to be suspended, or reversed, that the whole administration of civil justice may be said to center in the person of a zillah Judge, who though he may be endowed with the greatest talents and application, must ever remain but imperfectly acquainted with the language and customs of the people on whose rights he decides. A punchayet has greatly the advantage of the Judge in these matters; and being less exposed to intrigue and bribery than the officers of the court, it would be more capable than the Judge of ascertaining the truth, and more willing than his officers to support it. It would be idle to expect that justice could be administered personably by a single European to a whole province or zillah. In every populous country, justice can be properly distributed only by means of the natives. If it is supposed that they cannot be made to

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dispense it to each other, it is still more unlikely that this can be accomplished by a stranger. The code has, however, imposed this task upon the zillah Judge, evidently from the idea that the natives are not to be trusted. There is, certainly, no situation in which a native can receive bribes with greater facility and less risk of discovering, than in that of a Commissioner; but the evil might be prevented, in a great measure, by obliging him to try all suits by a punchayet, where either of the parties required it. The natives, surely, cannot with any foundation be said to be judged by their own laws, while the trial by punchayet, to which they have always been accustomed, is done away. The code provides referees and arbitrators; but these are not what the native wants. He has, most probably, had recourse to them already; and when he comes forward to complain publicly, he expects a punchayet. The rapacity of many of the native governments and their officers compelled the inhabitants, for their own sakes, to settle all disputes concerning property as secretly as possible, by the help of referees or arbitrators; but where these means failed, they were constrained to make the suit public, merely because a punchayet could not be assembled without the interposition of authority. They still proceed in this manner; and where the parties can agree about referees or arbitrators, they can generally obtain them without application to a court of justice.

25. Punchayets will, no doubt, be occasionally influenced by corrupt motives, as well as the officers of a court of justice: but when this happens, it is better that the disgrace should fall on the punchayet than the court; for, in the one case, the inhabitants can only lament the depravity of their own morals, but in the other, the court and the Government by which they have been introduced will be rendered unpopular.

25. In the Ceded Districts, unless there is some modification of the process of recovering debts from the Ryots, it will be productive of great distress to them, and of considerable detriment to the public revenue. Almost every Ryot has an account with a bazar-man and a balance against him. This account often runs through two or three generations, and is rarely paid off entirely. It usually originates in a small advance by the bazar-man, who probably gives seventy or eighty rupees, and takes a bond for a hundred, with interest at two and a half per cent. monthly. The Ryot, in return, makes payments in grain, cotton, and other articles, which are usually valued against him, and he receives occasionally from the bazar-man small sums for the discharge of his *kists*. After going on in this way for a number of years, the Ryot finds, that though he is continually paying, he is only getting deeper into debt. He is satisfied that he has paid as much, or more than he ought to have done, though from his ignorance of accounts he cannot exactly explain the particulars, because he does not know how to calculate interest upon his own repayments in kind; he therefore stops payment, and begins to deal with another bazar-man. He is protected against distraint of his cattle and grain by the officers of the native government, for the sake of revenue; but if he carries any part of the produce of his land to a neighbouring village for sale, he is detained by his creditor, and he then applies for a punchayet. The punchayet goes back, as far as possible, into the dealings of the parties, values the Ryot's commodities at a fair price, allows him interest upon the amount, and should a balance still remain against him directs him to pay it, but if none, cancels the bond or other vouchers of the creditor. It does not consider a claim as valid, merely because it is founded upon a recent bond, because it knows that a Ryot who is in immediate want of a small advance of cash will come to a settlement of accounts, and acknowledge a balance, of which not one-tenth is fairly due. This was the process which usually took place between the Ryot and his creditor in the Ceded Districts, under both the native and the Company's Government, before the introduction of the judicial system: but now the creditor has only to produce a recent bond or an old one that has been in a train of payment, an order for distraint instantly follows, and a Ryot who has always paid, and would all his life pay a rent of one or two hundred rupees, is at once stripped of his cattle, grain, and implements of husbandry, and will most likely never again rise above the rank of a common labourer. The judicial code, in this instance, supports the most artful against the most simple class of the inhabitants; for it gives to the creditor a power of distraint, which he neither had nor looked for at the time the debt was contracted. I am aware that fraudulent debtors can be compelled to pay only by distraint; but yet it does not seem to be altogether just, that the

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Regulation should have a retrospective effect, and place the creditor on a better, and the debtor on a worse footing, than they respectively were before. I would, therefore, propose that in all claims for debts of an earlier date than that of the introduction of the zillah courts, distraint shall never be permitted to extend to seed-grain, or to the implements or cattle employed in husbandry; and that in all distraints for debts, whether contracted before or after that period, the rent of Government shall always be discharged before that private creditor can receive any part of the proceeds. Wherever an individual distrains the property of a Ryot who has not paid his rent, the debt is, in fact, paid by Government: for no rent is ever recovered from a Ryot who has suffered distraint. As the Ryot does not pay his first *kist* to Government until the sixth month of the fusily year, by which time he has often realised the whole or the greatest part of the crop, it is obvious that the private creditor, by distraining at this period, may always seize for his own use the produce destined for the payment of the public revenue.

EXTRACT JUDICIAL LETTER *from the* COURT *of* DIRECTORS *to the* GOVERNMENT *of* FORT ST. GEORGE,

Dated the 29th October, 1813.

Letter from, 15 March 1811. (Par. 57.) Reports of three Judges on completion of their Circuits.

Judicial Letter to Madras, 29 October 1813.

Par. 35. The reports referred to in these paragraphs we find to have been prepared in conformity to the 37th Section of Regulation VII. of 1802, which directs "the "Judges of Circuit to transmit to the Foujdarry Adawlut a report, containing "such observations as they have made during the circuit, regarding the effect "of the present system for administering the criminal laws in the prevention "and punishment of crimes, as well as respecting the state of the jails, the "treatment and employment of the prisoners, and such other matters as they "may think deserving of the notice of the court." We perfectly agree with you in opinion as to the merit of the reports furnished by two of these Judges, Messrs. Read and Grant, which have supplied us with much useful information on the topics to which they relate. We are not surprised that the report of Mr. Travers should possess less interest and information, when we reflect that this gentleman had but recently entered upon the duties of a department which was new to him, he having been employed in the revenue branch of our service.

36. We have examined the reports of the two Judges first named, with the particular view of ascertaining, as far as those documents enabled us to do, the operation of the systems of criminal justice and police which exist in the provinces under your Government. Many of the facts and observations which they contain have attracted our attention; but we shall, at present, defer entering upon this subject, as we shall soon take an opportunity of addressing you fully upon it, as well as upon the administration of civil justice within those territories.

41. The three Reports of the Judges of Circuit accompanying the dispatch to which we are now replying, are the first documents of this description which we have yet received from your Government. We direct that they be regularly transmitted to us in future, and that you supply us with a complete series of those which have been furnished you since the first establishment of those courts.

JUDICIAL LETTER *from the* COURT *of* DIRECTORS *to the* GOVERNMENT *of* FORT ST. GEORGE.

Dated the 29th April 1814.

Our Governor in Council at Fort St. George.

Judicial Letter to Madras, 29 April 1814.

Par. 1. Our last letter to you in this department was dated the 29th October last.

2. In our dispatch in the Revenue department, dated the 16th December, 1812, we took occasion to convey to you some general observations on the practical

practical operation of the system of judicature, which has, of late years, been established in the territories of Fort St. George, and to prepare your minds for a fuller and more mature disclosure of our sentiments and determinations on this important subject. Since that period, it has engaged our deliberate consideration; as have also the existing arrangements for conducting the police within those territories.

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3. We propose, in this separate letter, to communicate to you the ideas and views we have formed, after a careful examination of your official records, and after collecting the sentiments of many of our servants now in England upon the subject, in regard to both these branches of internal administration under your Government, and to furnish you with such orders and instructions as we have deemed expedient, and, indeed, essentially necessary, for attaining the accomplishment of those great objects of civil regulation, and, at the same time, of relieving, in some degree, our finances from that heavy pressure to which they are at present subject, under the heads of judicial and police charges.

4. We have approached the consideration of this subject, under a deep impression of the fitness and wisdom of proceeding with due caution and care in the adoption of any material alterations in existing systems of government, and of the mischiefs which too often result from innovations in matters of such important and delicate concern. With these strong convictions on our minds, it is very satisfactory to us, on a review of this great question, to be enabled to state that the modifications which we are about to prescribe in this dispatch, do not involve the introduction of any novel or untried principles, nor any essential departure from an ancient and long established order of things, but rather the revision and amendment of one of recent creation, which has existed a few years only in the provinces under your presidency, and the operation and effects of which it is our duty to watch over, with the view not only of preserving and cherishing whatever of good may be found to accompany it, but also of modifying and reforming it, in those respects in which experience may have proved it to have failed in its expected consequences. It is in this spirit that we have entered upon the present investigation; on the one hand influenced by an earnest disposition to avoid all changes, not absolutely called for in an existing system adopted under our own sanction, and, on the other, not insensible to the obvious policy of removing the errors, and of supplying the defects, which may be found to belong to it, before the progress of time shall have rendered them inveterate.

5. We shall, in the first instance, direct your attention to the state of your judicial establishments. The increased and increasing expenditure on this account amounted, for the year 1811-12, to no less a sum than £348,262, exclusive of the expense of the Supreme Court of Judicature, diet of prisoners, and the police, being, comparatively, a small part of the whole judicial charges of the three presidencies in that year. This has been made the subject of frequent correspondence with your Government; but the instructions which we have transmitted to you, strong and urgent as they were, have led only to partial retrenchments of a trifling nature, while they have fully served to satisfy our minds, that any considerable diminution of this article of public disbursement cannot be looked for, nor even a limitation be fixed to its present high scale, by any measure short of a revision of the whole system.

6. The expedients which you found it necessary to adopt for reducing the arrears in the courts under your Government, had been, as we observed in our Revenue letter of 16th December last, "some years before resorted to by the "Supreme Government; but, as we also remarked, they had not been found "adequate to remedy the evil which still continued to be heavily felt in the "Bengal provinces, notwithstanding the further measures that had been more "recently devised for the same purpose." Even so lately as the year 1812, it was found necessary to pass a Regulation for augmenting the number of Judges in the Sudder Dewanny and Nizamut Adawluts of Calcutta, "as occasion might "require;" and, in the same year, a resolution was adopted to appoint a certain number of *permanent* Assistant Zillah Judges, to be employed where their services were most wanted, thus constituting, in both cases, a standing increase of expense attendant upon the judicial system.

 7. It

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7. It nevertheless appears, from the last accounts received from that side of India, that the number of suits depending before the different tribunals of civil judicature, on the 16th July 1812, amounted to no less than 20,981 ; and so far from any expectation being held out by the Government of Fort William, of any material reduction of that number, we are led to entertain the strongest apprehensions of an augmentation.

8. We must here remark, that when the present judicial system was introduced into the provinces of Bengal, Behar, and Orissa, the number of depending suits in the Dewanny Adawluts was stated by Lord Cornwallis, in his minute of the 11th of February 1793, at about 60,000. The consequent delay in the decision of suits was then described by him as "ruinous to the suitors, "as defeating the end of justice, and as striking at the very root of the prosperity of the country." Lord Cornwallis, in the establishment of the system, considered a speedy settlement of causes to be a primary and essential object to be effectuated by it, observing, as he justly did, that "the constitution "of the courts should be so framed, as to put it out of the power of the Judges "to deny or delay justice, that individuals should by a mere application be able "to command their interposition for the redress of injuries, from whomsoever "sustained." It is to this effect, also, that he observes in the same minute, that "there should be courts of justice to punish oppression and exaction, and "that the people must be satisfied that the remedy must be certain and effectual, and that it can be expeditiously applied."

9. The facts which we have adduced, and others which will hereafter be noticed, furnish but too ample evidence that the provisions of the judicial code of British India, highly beneficial as they have proved in some important particulars, have yet substantially failed in the accomplishment of one of the most material ends they had in view, in that large portion of our possessions where the code was originally introduced, and where it has been longest in practice. But, in taking a survey of the inadequacy of the judicial system, the existing accumulation of undecided suits is very far from exhibiting the whole extent of the evil. To form a tolerably correct idea on this subject, especially in regard to the zillah courts, to which we here more partiucularly direct our observations, we must bear in mind the number of persons who may be deterred from applying to them for redress, from the despair of having their disputes and grievances settled within any reasonable time, as well as from the great distance they must travel for justice, the expense of the journey, and the interruption which it must occasion to their private concerns, called away, as they are, from their homes, at the very season when their absence cannot be dispensed with, without serious injury to the cultivation of the land. The records of the Bengal Government inform us of another evil of no less consequence, viz., that the affrays, homicides, and woundings, which are continually occurring in those provinces on the subject of disputed rights, are occasioned by the length of time that necessarily elapses before redress can be obtained, which has been found to impel those who feel themselves injured in their rights and property to have recourse to violence and force for the defence of them, thereby taking the law into their own hands.

10. It would be needless to argue, that the same causes must produce the same effects within the possessions of Fort St. George. The proof of this fact is strongly borne out by the official communications of several of the Judicial and Revenue servants belonging to your establishments: but if such evidence were wanting, it might alone be very safely rested on a reference to the actual population of the country, and the number of suits decided and remaining undecided within the year, which sufficiently shew how disproportioned the existing means of judicial administration are to the wants and necessities of the people.

11. This deficiency of means is, no doubt, to be imputed, in part, to the great extent of the local jurisdiction of the zillah and provincial courts: but we are firmly persuaded, on a full examination into this subject, that even if the state of the Company's funds would admit of such augmentation of these courts as would reduce their local jurisdiction to one-half of their present size, it would, after all, operate only as a partial remedy, and still leave the administration of justice

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justice in a state and condition very inadequate to the fulfilment of its professed purposes.

12. We are led to direct your attention, in the first instance, to that branch of this important subject which relates to the *European agency* employed for the discharge of the duties of Judges and Registers in the zillah courts; and, in doing this, we shall avail ourselves of the opinions of some of the best informed and most enlightened of our servants, who, under the Bengal Government, and under your presidency, have been enabled, by experience in the execution of the judicial functions, to form opinions, and who have felt themselves called upon by a sense of duty to record them. Sir Henry Strachey, Judge and Magistrate of Midnapore, in his report of the 30th January 1802, after enumerating circumstances which obstructed the due administration of justice, observes as follows: "Another impediment, though of a very different nature, "and much more difficult to remove, is to me too palpable to be overlooked: "I mean that arising from Europeans, in our situation, being necessarily ill "qualified, in many points, to perform the duties required of them as Judges "and Magistrates. Nothing is more common, even after a minute and la- "borious examination of evidence on both sides, than for the Judge to be left "in utter doubt respecting the points at issue. This proceeds from the imper- "fect connection with the natives, and our scanty knowledge, after all our "study, of their manners, customs, and languages. We perhaps judge too "much by rule: we imagine things to be incredible because they have not "before fallen within our experience; we constantly mistake extreme sim- "plicity for cunning; we make not sufficient allowance for the loose, vague, "and inaccurate mode in which the natives tell a story; for their not compre- "hending us and our not comprehending them; we hurry, terrify, and con- "found them with our eagerness and impatience.

"I am fully convinced that a native of common capacity will, after a little "experience, examine witnesses and investigate the most intricate case with "more temper and perseverance, with more ability and effect, than almost any "European;" and, as he says in another place, "a very few simple rules "would, perhaps, suffice to correct the abuses of former times. I confess it is "my wish, though probably I may be blamed for expressing it, not only to "have the authority of the natives as Judges extended, but to see them, if "possible, enjoy important and confidential situations in other departments of "the state.

"We cannot study," the same Judge observes,* "the genius of the peo- "ple in its own sphere of action. We know little of their domestic life, their "knowledge, conversation amusements, their trades and castes, or any of "those natural and individual characteristics, which are essential to a com- "plete knowledge of them. Every day affords us examples of something new "and surprizing; and we have no principle to guide us in the investigation of "facts, except an extreme diffidence of our opinion, a consciousness of in- "ability to judge of what is probable or improbable."

13. The ideas of Colonel Munro on the same subject were communicated to your Board of Revenue, in his report from the Ceded Districts, dated the 15th August 1807.

"There is," he observes, "such a strange mixture of fraud and honesty in "the natives of India, and even in the same individual in different circum- "stances, that none but a native can, on many occasions, penetrate the motives "from which such opposite conduct arises; the numerous petty dealings con- "stantly going on with comparatively very few disputes; the frequency of de- "positing money and valuable articles without any kind of voucher, and the "general practice of lending money without any receipt or document but "the accounts of the parties, manifest a high degree of mutual confidence, "which can originate only in a conviction of the probity of each other. But, "on the other hand, every native will perjure himself in a litigation respecting "water-boundaries of villages and privileges of castes: he will, also, perjure "himself, with little hesitation, in favour of a relation, a friend, or an "inhabitant of the same village. These causes, added to bribery, render per- "jury

* Report, as Circuit-Judge, on termination of the second session of Calcutta division for 1802.

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" jury so common, that scarcely any dependance can be placed upon evidence, " unless when it is supported by collateral proofs. The number of witnesses, " and even their general character, is therefore of less consequence than an " acquaintance with those particular customs and prejudices, by which their " evidence is likely to be biassed. The Judge must always be inferior to " a native in knowledge of this kind: he will likewise be deficient in the lan- " guage. He never can be so much master of it as to follow and detect the " minute points by which truth and falsehood are often separated. The voice " of a witness, the manner, the mode of expression, the use of words of a " less positive, though often similar sense; all these must be beyond the reach " of an European, whose knowledge of an Indian language can never extend " to such niceties."

14. These are the sentiments and opinions of two of our servants, well qualified, from local observation and practical knowledge, to speak on such a subject; and they have been strongly corroborated by other respectable authorities on record, which we have consulted in the course of our investigation.

15. It is but too obvious that an European must labour under very great disadvantages in the administration of justice among a people so peculiar in their habits, their ideas, and customs, and with whose dialects it is in vain to expect we can ever become sufficiently acquainted. A document which we received from Bengal in the year 1810,* distinctly informs us that " a few only of the " Magistrates understand the Bengalese language." In the Peninsula, where the dialects are much more various, this deficiency in the native languages cannot, we conceive, be less felt than it is within our possessions subject to the Supreme Government.

16. These circumstances, while they must render the proceedings of the European Judge liable to great error and misconception, in spite of all his care and disposition to act rightly, must also, in a great measure, reduce him to a dependence on the native officers of the court, which in various ways will tend, as we know it very extensively has, to the abuse and perversion of the ends of justice; and from the inability of the Judges to follow readily what passes in the progress of hearing a cause, a dilatoriness in the dispatch of business must arise, which, of itself, would contribute, in no small degree, to that accumulation of suits instituted in the zillah courts.

17. What also occasions the great arrears of suits in all our tribunals, both European and native, is the process and forms by which justice is administered. This process and these forms are substantially the same as those of the superior tribunals in England, and even pass under the same names. The pleadings of the court are almost in every case written, as well as the evidence of witnesses, and they proceed by petition or declaration, replication and rejoinder, supplemental answer and reply.

18. Such a minute and tedious mode of proceeding, in a country where the courts are so few compared with the vast extent and population of it, must be quite incompatible with promptitude and dispatch. Causes must be long pending and slowly got off the file, and the tardiness with which they are brought to a settlement must, in innumerable instances, be a greater evil than the original injury sought to be redressed, to say nothing of the frequent visits which the litigant parties are under the necessity of making, for the purpose of filing their pleadings in the progress of the cause, according to the turn which the proceedings may take. This grievance is one of no ordinary magnitude to the suitors, as well as those who may be summoned to give evidence. On one description of persons it must, according to the information we have received from Colonel Munro, operate with peculiar severity: we here refer to the heads of villages.

" These are," he observes, " subjected to great inconvenience and distress, " being summoned as witnesses in every trifling litigation that goes before the " Judge from their respective villages. They are supposed to know the state " of the matter better than any body else, and are therefore always sum- " moned. They are detained weeks and months from the management of their " farms, and are frequently no sooner at home than they are called away fifty " or

* Mr. Secretary Dowdeswell's Report, dated 22d September, 1809.

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" or one hundred miles by a fresh summons, about some petty suit which they " could have settled much better on the spot; and crowds of them, as well as " of the principal Ryots, are always lying about the courts, and very often " without its being known to the Judge that they are there."

19. We have the declaration of your Board of Revenue, that " these cum-" brous formalities," as they term the forms and process of the courts, " rather " embarrassed than aided litigants " The inconveniences to be expected from them were ably pointed out by Colonel Munro in the same year, on the extension of the judicial system to the Ceded Districts; and some of those which have actually resulted are strongly, but, we believe, faithfully depicted by the Collector of the southern division of Arcot,* in his report on the settlement of the revenues for the fusily year 1808-9. " Hundreds of complaints of acts of " oppression have been made to me, but on which I have no power to grant " redress. I can only refer them to the court; and the court, if it did nothing " else, would not have time to redress all such grievances, even if they came " before it. But the road to justice, in such instances, is so clogged with " forms, &c. that nine out of ten of such grievances never can come before it. " It is cheaper," he adds, " for complainants to submit to be plundered than " to seek redress."

20. What must also be very materially obstructive of the purpose for which such forms of proceeding are prescribed by our system of civil judicature is, that they are perfectly new to the natives, to whom justice was used to be administered according to very simple rules, and in a summary manner.

21. The general unfitness of the natives to conduct their own causes, in tribunals whose proceedings are regulated by rules of such a refined and intricate nature, has led to the appointment of Vakeels, or licensed pleaders, to each court. But this measure, though intended for the convenience of suitors, is accompanied with injurious effects, by placing the plaintiffs and defendants very much at the mercy of a set of men, who for the most part, we fear, are wanting in respectability of character, with little sense of reputation, and depending for their subsistence on the encouragement and fomentation of frivolous and vexatious litigations.

22. The defective and superficial acquaintance of the Vakeels themselves with the Regulations, and their general inaptitude for the discharge of their duties, has long been the theme of complaint on the part of our servants under the Bengal presidency, as well as by Colonel Leith, who was employed, under your Government, in framing the original code of laws and Regulations, and who has, in his letter to the Chairman of the Court of Directors, of the 25th January 1805, of which we formerly transmitted you a copy, expressed his opinion on the subject of the Vakeels, in terms which have particularly attracted our attention. " There is, perhaps," he says, " no part of the judicial " system which has been attended with worse consequences than the Vakeel " branch of it. They are, in general, extremely illiterate; and their situation " gives them various opportunities of committing abuses which are not easily " detected. In particular, they have been accused of promoting litigation, by " holding forth false promises of success to their clients. Their habits of inter-" course with the natives, and their being, in a manner, the only persons who " are acquainted with the Regulations, makes it easy for them to do so. I do " not hesitate in saying that one great cause of the litigation and delay in law-" suits has arisen from the native pleaders."

23. Your Board of Revenue, also, in the report to which we have already referred, have distincly averred, that " the licensing of pleaders in Vakeels " had led to a series of fraud and corruption in the zillah and provincial " courts;" and they therefore recommend, that in the Revenue courts which it was then in contemplation to establish at the presidency, " pleading *ore tenus* " should be adopted, instead of petitions, replications, and rejoinders."

We therefore direct you to instruct the courts of Sudder Dewanny and Nizamut Adawluts, and the inferior courts, to communicate their ideas on this subject; and that you do, thereupon, revise the respective powers, together with the forms of process in both departments, with the view of rendering the

 proceedings

* Mr. Ravenshaw.

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proceedings in civil cases as summary as may be compatible with the ends of substantial justice.

24. The reply and rejoinder may, perhaps, be dispensed with, as the plaint and answer generally contain all the material facts of the case.

25. Another part of the system, which has an evident effect in lengthening the proceedings of the courts, has not, as far as we know, the recommendation of being borrowed from any English institution: this is the practice (presented by Regulation III. of 1802,) of taking down in writing all depositions, although delivered orally, in open court. We have great doubts as to the necessity of this custom, and desire that the subject may be carefully considered by the courts.

26. The employment of licensed Vakeels is so connected with the judicial system now established, that we are certainly not prepared to do away this class altogether: but we are very desirous that the subject should be maturely considered by you, as well as by the Sudder court, with a view of devising, if it be possible, a remedy for an evil so generally acknowledged.

27. We would here call your attention to another part of the judicial system. We allude to the latitude of the appeal allowed from the decisions of the Registers of the Zillah courts, and from the decisions of the Judges of those courts. The facilities thus afforded for the prolongation of judicial disputes, and its attendant evils, have been represented to us by many of your most experienced servants as strongly requiring the application of some remedy. By the original Regulations of your Government, no suit was appealable from the judgment of a Register or a Judge of a Zillah court, unless, in the former case, the amount of the property litigated exceeded twenty-five A. Rupees, and in the latter, one thousand rupees: but by Regulation VII. of the year 1809, these restrictions were removed, and appeals were allowed in all cases from their determinations, except in regard to suits tried by a zillah Judge in appeal from the head and other native Commissioners. We are of opinion that a renewal of the restrictions which formerly existed under Regulation II. of 1802, would be productive of much good effect; and we hereby direct, that no further appeal be permitted to be from a decision of a zillah court on an appeal from the Register, or from any native tribunal. With regard to special appeals, we leave you at liberty to extend the provisions of Section 26 of Regulation VII, 1809, to any case not comprehended within them, which, on due consideration, you may think fit.

28. The expenses, also, of prosecuting suits, which before were confined to the maintenance of witnesses and the employment of a Vakeel, have, since the year 1808, been considerably augmented, by the direct charges to which legal proceedings are subjected, by fees on the institution and trial of causes, and on the presentment of petitions, exhibits, &c. both in the European and native courts, as well as by stamp-duties upon the pleadings in the former.

29. These additional charges were imposed, as it is declared in the preambles of Regulations IV, V, and XVII, of 1808, for the purpose of preventing litigious and groundless complaints, the filing of superfluous exhibits, and the summoning of unnecessary witnesses.

30. To the first-mentioned of these Regulations, and to Regulation XVII, which gave a retrospective effect to the provisions of the former one respecting judicial fees, the Sudder Dewanny Adawlut have, in their report of the 19th February 1813, particularly called our attention, as the chief means by which the arrears of civil suits had been so greatly reduced since the year 1807. But, with the evidence we have before us on this subject, we see too much reason to conclude (bearing in mind, as we must, the smallness of the interests which produce litigation among the natives), the additional expenses thus imposed serve to discourage, and often to preclude, the fair claimants from applying to our judicatories.

31. Under the rules and regulations which obtained previous to the introduction of the present system for the administration of justice in Bengal, a deposit-fee was levied on the institution of suits in the civil courts, varying from five to

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to two per cent., in proportion to the cause of action, and certain other authorized fees of court. On the first establishment of the present system, in 1793, these fees were abolished, and the suitors were relieved from all other expenses, except the prescribed fee to the pleaders and the actual charge in summoning their own witnesses. The grounds which induced Lord Cornwallis to adopt this measure are explained at large in his minute of the 11th February 1793. "This tax," observes his Lordship, alluding to the fees we have just stated, "which the people are obliged to pay for having justice administered to them, "at the same time that it debars many from recovering their rights, and fails "of its intended effect, has a further oppressive operation, by punishing equally "all suitors, whether their causes be litigious or not. The fact is, that the "evil which this regulation is intended to obviate is ascribed to a wrong cause. "It is not to be attributed to the litigiousness of the people, but with more "truth to the dilatoriness and insufficiency of the administration of justice."

32. The Zillah Courts created under the new system being soon overwhelmed with causes, the principle maintained by Lord Cornwallis was departed from, and fees were established on the institution of suits, and on exhibits, &c., as well as stamp-duties on the written pleadings. The reason assigned in the preambles of the regulations relating thereto were the same as those which induced you to resort to those expedients. We are much disposed to believe, from the practical authorities we have consulted upon this subject, that though these charges upon law proceedings have served to diminish the number of vexatious suits instituted in our courts, they have, at the same time, had the effect of deterring too many from seeking judicial redress for real and substantial injuries, on account of their inability to support the costs which necessarily accompany the means of obtaining it.

33. Having adverted to the general and most obvious defects in the present system, we are brought to the consideration of the remedy most applicable to them; and after a minute examination of every available source of information within our reach, and having attentively reviewed the whole that we have collected, we are disposed to think that the important object, as far as the administration of civil justice is concerned, may be obtained in a degree commensurate to the wants and necessities of the people, by such a modification of the present judicial system itself, as shall consign a great part of the business now conducted by the zillah and provincial courts to intelligent natives, through whose agency the means of administering justice might be enlarged, and, at the same time, a foundation laid for diminishing the expense attending the existing establishments of the Company.

34. We find, from the concurrent testimony of our most experienced servants, that throughout Hindostan the affairs of every village were formerly managed by two descriptions of persons; one usually designated by the appellation of Potail, though in some parts of India called Mundul or Mocuddim, and the other characterized by the name of Curnum or Putwarry. The Potail acted as the Judge, Magistrate, and Collector, within his village. In the former of these capacities he settled the disputes which occurred within it, assisted in cases of importance, or where the litigant parties required it, by a punchayet, or native jury, consisting of fewer or more persons, whose judgment was subject to an appeal to the Aumildar, or Collector of the province, in whom was vested, not only the general administration of the revenues, but also the superintendance of civil justice, as well as of the police. This was the mode of administering justice in all cases of property or personal right, except in regard to questions of caste or religious discipline, which were decided by the rulers of the different tribes, assisted by punchayets.

35. The Curnum or Putwarry, who was, and still is, the register of the village, assisted the Potail in the discharge of his judicial and magisterial functions; but it was his more especial duty to keep the public accounts of cultivation and revenue, and to record transactions between one individual and another, in the nature of bargain, payment, or receipt, his registry being the attestation of all such transactions.

36. Both the one and the other of these village superintendants enjoyed lands free from or upon payment of a small quit-rent, or what is nearly the same, specific

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specific shares of the produce of a particular portion of land, besides certain payments in grain or in money from the other residents of the village. In a country where internal disturbances have been so frequent, these officers are stated by Colonel Munro to have been regarded by the inhabitants as their natural and permanent superiors, their influence in the little communities to which they belong being founded as much in personal respect as in the authority of their office. They are the native gentry of the country; and, from the particular relations in which they stand to the people, they possess a knowledge of the general concerns of the villages, and of the character of every one within them, which renders them peculiarly well qualified to perform the municipal duties entrusted to their charge.

37. In the modern possessions under your Government, where the zealous and well-directed inquiries of some of your ablest and most intelligent servants brought us to a nearer acquaintance, than in any other part of India, with the nature and uses of the local institutions of the country, and where, also, the policy had been most attended to, of regarding these institutions as the natural and only solid foundation on which to raise the superstructure of civil government, a close adherence to the ancient and customary course of proceeding in the adjudication of civil causes appears to have been observed, until the introduction, a few years ago, of the judicial establishments now existing.

38. Of the utility of the Potails in their judicial character, and of their identification with the domestic economy and internal arrangements of the country, we have the recorded testimony of many of our servants.

39. Colonel Munro, in his report from the Ceded Districts of the 15th May 1806, informs us that "every village, with its twelve Ayangadeas, is a kind of "little republic, with the Potail at the head of it, and that India is a mass of "such republics." The inhabitants, during war, look chiefly to their own Potail. They give themselves no trouble about the breaking out and division of kingdoms. While the village remains entire, they care not to what power it is transferred: wherever it goes, the internal management remains unaltered; the Potail is still the "collector, and magistrate, and head farmer. From the "age of Menu until this day, the settlements are made either *with* or through "the Potails." And in another of his interesting and valuable reports he informs us, that "whoever rules the province, they rule the village." This description of the village societies of India is confirmed by the view which your Board of Revenue took of the same interesting subject, in their report of the 25th of April 1808.

40. The account here given of the Potail, and of his influence and importance, as necessarily resulting from his character and relative situation within the village community, of which he is the chief member, is also in strict conformity with the statements which have been afforded by Colonels Read and Wilks, by Mr Thackery, and other respectable authorities.

41. Your Board of Revenue, in their report to which we have just referred, further state, that "the influence of the head inhabitant among the people is "much greater than that of a Zemindar or Poligar, and that, when he is not over-assessed, he will always exert it on the side of Government."

42. From these concurring testimonies we are led to recognize in the Potail and Curnum the most powerful instrument that any government can possess for conducting the detailed operations of its internal administration, as well in regard to the distribution of justice as the direction of the police. It appears to be through this agency that the frame and constitution of the little village communities, of which all India is composed, has been held together for so many centuries. They are unquestionably (what they have been termed) "the "natural and permanent authorities of the country," and true policy strongly dictates the expediency of our availing ourselves of their services; for it is thus only, as we are now firmly convinced, that the business of Government can be adequately conducted in a foreign country like India, in which the population is so extensive, and the habits and manners of the people so different from our own.

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43. The Judicial Regulations admit of the employment of native Commissioners as referees, under the orders of the zillah tribunals, and as Judges, with an original jurisdiction in matters of personal property to a limited amount; and, in the case of the head native Commissioners, authority is given to decide suits of small amount respecting real property. The Regulations also empower the other native Commissioners to act as arbitrators, when applied to for that purpose by the inhabitants. But restricted as these native authorities are in their powers, and liable as they also are, under the latitude of appeal which is permitted from their decisions to the zillah Judges, to have them suspended or reversed, a large portion of business thus necessarily devolves on the Judges and Assistant Judges, which, together with the appeals from the judgments of the Registers, and the suits that come before them under an original jurisdiction, they are utterly unable to deliver themselves from, by every possible exertion they can make.

44. We are, however, very far from meaning to detract from the efficiency of the native branch of the judicial system; on the contrary, we refer with satisfaction to the facts stated in the report of the Sudder Dewanny Adawlut at Fort St George, wherein it is observed that " these subordinate judicatories " are operative, to a very extensive degree, in promoting the general and " speedy distribution of civil justice, in causes, though small, yet of infinite im- " portance to the parties, who could not, without the most serious incon- " venience, be subjected to the necessity of leaving their families, and giving " attendance at the stations of the zillah courts." This report from the Sudder Adawlut furnishes a strong and convincing argument for the employment of natives in the administration of civil justice, and satisfactorily demonstrates the absolute necessity of availing ourselves of their instrumentality, to a much greater extent than has hitherto been done.

45. We must, however, continue to think that the agency of natives appointed to act as Commissioners, is much less eligible than that of the heads of villages acting within the limits of their own municipalities. The slender and very insufficient emoluments allowed to native Commissioners for the performance of very laborious and responsible duties, must render it extremely difficult to secure the services of men of respectability and influence in society, and possessing the requisite qualifications.

46. These circumstances are stated, in the report from the Sudder Dewanny Adawlut, to which we have already referred, as having " hitherto retarded the " consummation of the arrangements for this purpose; in some cases, by the " difficulty of finding persons sufficiently men of business and character to dis- " charge satisfactorily a trust so delicate, and one that is so closely connected " with individual comfort and prosperity; in others, by the disinclination of " those of adequate respectability and talent to undertake a duty, which, with- " out promising any immediate personal advantage, seemed to be laborious to " a degree alarming to their habits."

47. The official correspondence of the local authorities under the Bengal Government leave it not a matter of speculation, that the native Commissioners in those provinces are a description of persons who, like the Darogahs of police, are of inferior character among their fellow-countrymen, very rarely possessing that local influence and consideration which ought naturally to attach to individuals holding these situations.

48. These necessary qualities, we have already shewn, are much more likely to be found among the Potails and Curnums of the villages, than among any other denominations of the natives. They have, for ages, been in the constant habit of administering justice in their villages, with all the aids derived from acknowledged rank and hereditary connection they are still in the enjoyment of; or possess the right to a permanent provision in land and fees, originally assigned them, as public officers, for the execution of that and other duties. That particular duty, we cannot doubt, they would again gladly execute, because it was one inseparably connected with the consequence which belonged to them in their respective villages, and which, by being committed to other hands, must, as we are satisfied it has, from various official channels of information, considerably impair their influence, and render a numerous body of men

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men dissatisfied, if not disaffected to our Government, whose support and attachment we cannot but consider of more importance to the internal security of the country, than even the strength of our military establishments. Such a measure would incalculably relieve the inhabitants from those vexations and inconveniences to which they are at present subject, from the want of the ready means of judicial redress, and would be most acceptable, as it would restore a form of judiciary administration which had long been familiar to a people, distinguished above all other nations in the world, by a dislike to innovation and a respect and adherence to ancient rules and customs.

49. As the punchayets, or native juries, appear also to have uniformly prevailed under every native government of India, it is necessary that they should make a part of any consideration involving in it a return to the ancient form of judicial administration.

50. It is remarkable that this institution should have been passed over without notice in the recorded discussions which preceded the establishment of the judicial system under your presidency, finding, as we have, on an examination of the reports of those Collectors who, antecedently to that period, superintended the administration of civil justice, that it was a general rule, at least among those in the modern territories, to avail themselves of the use of the punchayet in cases brought before them, and also to encourage the use of them by the heads of villages. It is stated by Captain Read, in a letter dated Khistnaghurry, the 30th July 1794, that " it was the custom of the inhabitants to settle trivial " disputes by punchayets, or courts composed of themselves; and when they " could not settle them by that means to their mutual satisfaction, to apply to " the Collector, who either did so himself or formed a punchayet for the pur-" pose, on whose verdict he determined." And in a cowle-namah of that officer is the following instruction :—" It is directed, that when any differences " arise relating to municipal management or cultivation, a punchayet, or native " court of arbitration, may be assembled to adjust them; and that if the offended " party afterwards resolve on an appeal to the huzzoor, he shall be sent thither " with its proceedings attested by its members, when orders shall be sent on " the affair in question." The members of the punchayet appear to have been mutually chosen by the parties. To prevent corruption and intrigue, their proceedings were openly conducted in presence of such of the inhabitants as chose to attend, and the members were not permitted to separate before they pronounced their decision, which was afterwards signified to the parties concerned by a written attestation, and enforced, if necessary, by the authority of the Collector.

51. No person in our service abroad has had more frequent or fuller opportunities of forming a just opinion of the advantages derived from these native juries, than Colonel Munro. In his report of the 15th August 1807, he says, " there can be no doubt that the trial of punchayet is as much the common " law of India, in civil matters, as that by jury is of England." No native thinks that justice is done where it is not adopted; and in appeals of causes formerly settled, whether under a native government or under that of the Company, previous to the establishment of the courts, the reason assigned in almost every instance was, that " the decision was not given by a punchayet, but by " a public officer; or by persons acting under his influence, or sitting in his " presence. The native who has a good cause always applies for a punchayet, " while he who has a bad one seeks the decision of a Collector or a Judge, be-" cause he knows that it is much easier to deceive them. The natives cannot, " surely, with any foundation, be said to be judged by their own laws, while " the trial by punchayet, to which they have always been accustomed, is done " away. The code provides referees and arbitrators; but these are not what " the native wants: he has most probably had recourse to them already; and " when he comes forward to complain publicly, he expects a punchayet."

52. Equally strong evidence is borne by Colonel Wilks in support of punchayets, in the Appendix to his Historical Sketches of the South of India. " Fully to understand the character and manners of the Hindoos, requires to " have lived and been educated among them as one of themselves; and I con-" scientiously believe that, for the purpose of discriminating the motives of " action and the chances of truth in the evidence of such a people, the entire

" life

" life of the most acute and able European Judge, devoted to that single object, " could not place him on a level with an intelligent Hindoo punchayet;" which he, in another place, describes as " an admirable instrument of practical deci- " sion."

53. It is, also, highly spoken of by Sir John Malcolm, in his Sketch of the Sikhs; wherein, after stating that " trifling disputes about property are settled " by the heads of villages, by arbitration, and by the chiefs," he, in a note to the word " arbitration," adds, " It is usual to assemble a punchayet, or a " court of arbitration, in every part of India under a native government; and " as they are always chosen from men of the best reputation in the place where " they meet, this court had a high character for justice."

54. We have, in our dispatch of the 16th December last, referred you, for a practical illustration of the fitness of punchayets acting in conjunction with the heads of villages, for the adjudication and settlement of questions of individual property and right, to a report made by Colonel Wilks to the Governor-General, on the " interior administration of the Government of Mysore."

55. To the authorities we have here produced, of several of our most able and experienced servants on your side of India, as to the practical utility of the punchayet institution, we shall only add that of an experienced judge under the Bengal Government, Mr. Melville, Judge and Magistrate of Dacca. In his report of the 21st December 1801, he observes, " I have said that authority " and great encouragement should be given to procure an adjustment of petty " disputes and quarrels, through the means of punchayets. This mode of " arbitration, for in the present instance it is nothing more, was formerly almost " universally practised; and it has not only the sanction of established usage " in its favour, but the members of such tribunals being, as it were, pointed " out for the office by their established character, and by the acknowledged " sentiment of the whole of their society, the decision is at once acquiesced in, " and becomes happily unquestioned. But to estimate fairly the great advan- " tage to be derived from this mode of adjudging disputes and allaying animo- " sities, it must not be disguised, and cannot have escaped the observation of " all who have had an opportunity to remark it, that litigation in petty disputes, " as at present practised, is a source of general unhappiness, and the parent of " multiplied crimes."

56. The same Judge, in a circuit-report for the division of Patna, of so late a date as the 27th June 1810, after noticing the length of time " a claim must " wait, with the sacrifices an individual must make, before the decision of a " civil court can be obtained, and his want of confidence in the stability of that " decision," proceeds to observe, " It must be noticed, also, that the manners " of the people are daily growing worse. The present system has, in its rela- " tions and consequences, affected the influence of paternal authority and of " castes, formerly salutary checks on morals; and our courts, by having a de- " tail of duty much greater than they can effectually manage, are unable to " supply any adequate substitute."

57. The great argument which has been alleged against entrusting the natives with the exercise of any extensive judicial authority is, their proneness to corruption. The fact is certainly not to be denied; but it is, at the same time, necessary that we should trace it to its cause, before we assent to the validity of the inference which is deduced from it. This we believe to consist in the want of efficiency which has marked the native governments in the more modern periods of their history. Nothing could well have been more relaxed than was the management of the affairs of civil administration under them, whether as it related to judicature, to police, or to revenue. Those regulations which are devised and provided, in every civilized country, for the guidance of public officers, and for preventing malversation and abuse of trust, had either grown into desuetude or were greatly disregarded. Most of the public establishments had become perverted from the original purposes of their institution; it was, therefore, no other than a natural consequence, that in the absence of a salutary and effective exercise of the supreme powers of the state, the public functionaries, when prompted by self-interest, should have been influenced by venal and corrupt motives.

58. If

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58. If we are correct in this reasoning, we may deduce from it a sufficient ground for believing that, under a vigilant and active superintendance and control exercised by the British Government, the Potails and Curnums, assisted by the punchayets, might be most advantageously employed in the administration of justice, without a recurrence of those serious and formidable abuses which prevailed in the latter periods of native administration.

59. The eminent success which has, within the last twenty years, attended the exertions of some Collectors of the revenue in the modern territories subject to your presidency, in preventing the corrupt practices of the native servants, and in keeping them to their duty, seems fully to warrant that conclusion. The great practical principle which they steadily kept in view, and to which the success of their labours must be very largely ascribed, was to leave the detailed management of affairs to the natives, according to the existing forms and usages of the country, and to see that they did their duty, instead of attempting to do it for them. A constant and pervading exercise of the powers of superintendence is the sphere of action in which the Company's European servants can be most beneficially employed; and in this sphere the active application of their time, their attention, and their talents, are of the most essential, and indeed of indispensable importance to the well-governing of the country.

60. We conceive, in the first place, that the Potail might, by virtue of his office, execute the functions of Commissioner within the village, in the several modes prescribed by the Regulations. As referee, he should hear and determine all such causes as may be referred to him by the zillah court, subject to the same limitations as to the amount litigated, and, generally speaking, to the same rules as are prescribed for native Commissioners acting in this capacity.

61. And in all cases thus coming before a Potail, either party should have the power of requiring the assembly of a punchayet; or the court may, in the order of reference, prescribe that mode of trial: and it should also be at the discretion of the zillah Judge to refer cases of particular descriptions, and not exceeding in value an amount to be specified by Regulation, to the Potail and punchayet for *final* adjustment. Boundary cases may, with peculiar propriety, be thus referred for final decision; but in cases not specially referred in this manner, the right of appeal will, of course, be allowed.

62. The amount to which the decisions of the punchayet might be rendered final, should, in the first instance at least, be very small. Being, however, strongly impressed with a conviction of the advantages which might be derived from that mode of trial, in point of promptitude and cheapness, we are anxious that its operation should be rendered as extensive as possible, consistently with the regular and impartial administration of justice.

63. The Potails, or, at the option of the parties, the punchayet assembled under the authority of the Potail, should be empowered to act as arbitrators, without limitation as to amount, in all cases brought before them by voluntary consent, under bonds of engagement to abide by the award pronounced, and to its being made a decree of the zillah court, and without appeal, except in cases of alleged corruption or partiality, proved to the satisfaction of the tribunal to which the application for setting aside the award is made, as already provided for by Regulation XVI. of 1802.

64. In the provision we have here made for the arbitration of disputes by Potails and village punchayets assembled by them, it is not our intention to supercede the enactments of Regulation XXI. of 1802, as to the reference of suits by the zillah courts to that mode of settlement. On the contrary, we are of opinion that individuals should be encouraged, in all cases, to get their differences accommodated by arbitration, in the way most agreeable to them; nor do we see any objection to investing the courts of justice with authority to enforce the execution of awards in private arbitrations, provided the litigants shall have previously entered into a written engagement to submit to the decision of the arbitrators, and to the awards being entered on the records of the court.

65. In regard to the jurisdiction which should be given to the Potail for deciding suits of his own authority, we do not feel ourselves justified, in the first

first instance, in directing that his decision, or that of a village punchayet, should be conclusive; except in the two cases already mentioned, namely, where both parties have voluntarily consented to abide by the decision, or where the zillah court, adverting to the nature of the dispute as well as the amount litigated, have referred the case to the Potail and punchayet specifically, for a final decision.

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66. In thus allowing, however, an appeal from the village court to that of the zillah, we by no means intend that the execution of the judgment pronounced by the former shall be staid during the pending of the appeal, except under special circumstances upon which the Judge shall be at liberty to exercise his own discretion. Such a permission would, we fear, greatly multiply appeals, and occasion their being lodged for the purposes of vexation or delay: we therefore desire that, in all cases not exceeding a certain amount, which we leave it to you to fix, the decision of the Potail and punchayet be forthwith carried into effect. Resistance to the process of that court would constitute a breach of the peace, and fall under the cognizance of the magistrate.

67. By the ancient system still prevalent under the native princes, there appears to have been an intermediate jurisdiction, original and appellate, between the village courts and those of the provincial Aumildar or Collector, namely, that of the Tehsildar or deputy of the Collector. As we do not propose, by our present instructions, to give civil jurisdiction to the Collector, we are, for the same reasons, unwilling to give it to any of the constituted revenue servants.; but, at the same time, we think it necessary that an intermediate native judicature between the village and the zillah court should, if possible, be established. Such a court might, in some degree, diminish the number of appeals to the European Judges, and might render it more difficult to obtain a decision through the partiality or corruption of the native Judges, as two sets of natives must thus be persuaded to abuse their trust.

68. This course would enable us, also, to try the experiment of the punchayet on a larger scale than that of the village, so as to have a greater selection of persons to exercise that function, as all the inhabitants of a village may possibly be connected with one or other of the litigant parties.

69 With this view, it has occurred to us that some of the natives who are highest in rank and most worthy of trust, whether now employed as Commissioners or not, may be invested with a jurisdiction over a certain number of villages, so as that there may be three, four, or five in a zillah, each with a peculiar district; and in order to induce persons of that description to undertake the office, and to discharge the duties of it with zeal and fidelity, we shall not object to your allowing them a fixed salary, in addition to a fee on the institution of suits brought before them, such as is received by the present native Commissioners.

70. The original jurisdiction to be vested in these native officers of justice might extend to all suits instituted in their courts, for personal property not exceeding two hundred Arcot rupees, for malguzarry to the same amount, and for lackeraje not exceeding twenty Arcot rupees, assisted, as they should be, where either of the litigant parties desire it, by a punchayet; and their jurisdiction might be final to the extent of five pagodas. Their appellate jurisdiction, (either party in the appeal being allowed a punchayet), might be final in all cases not exceeding ten pagodas, and also in regard to suits preferred in the zillah courts, which the Judges may, in analogy to the nature of the references to Potails and village punchayets, which we have suggested, deem it proper to refer, in the same special manner, to those superior native judicatories for final determination.

71. By reverting to the established practice, under the native governments, of employing the heads of villages, and punchayets assembled within them, in the administration of justice, with the introduction of district punchayets, as we have proposed, we are persuaded that we shall confer the most solid benefit upon our native subjects, and relieve the European Judges in a very considerable degree, from that weight of judicial business, the pressure of which must necessarily have compelled them to depend, in a great measure, upon the inferior officers of their court, who are open to various temptations to betray

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their trust and to deceive their superiors. The admission of the Potails and Curnums to this participation in the municipal administration will be attended with little or no expense to the litigants; for we propose that suits brought under the cognizance of those village officers should be altogether relieved from fees and stamp-duties. The inhabitants, as we have before observed, will have their complaints inquired into at their very homes, where the transactions to be investigated can be much better understood, and what is no small consideration, where the inquiry will be conducted in a mode sanctioned by the ancient usages of the inhabitants. We are also persuaded, that as the authority of these village officers must necessarily be confined to the cognizance of such matters as occur immediately within their own little communities, the history of which will be within the personal knowledge of every member of it, the best practicable facilities will thus be afforded to a prompt and satisfactory administration of justice.

72. In order that we may be enabled to appreciate the effect of these several measures, we are particularly anxious for correct and precise information as to the nature, as well as the number of suits instituted in the several courts. We desire that such returns may be made by the several Judges to the Sudder court, as may enable that court to furnish Government with a yearly or half-yearly report, in which the following particulars are to be stated:—

1st. The number of suits instituted before the several courts now existing, or hereafter created; distinguishing whether they have been decided or dismissed; whether the parties have acquiesced in the decision or have appealed, and to what court; and whether the decision has been confirmed or revised by the court of appeal.

2nd. In regard to courts which have an original and appellate jurisdiction, the returns will distinguish whether the suit comes before the court originally or on appeal; and, in the latter case, will shew the proportion of appealed sentences respectively reversed or confirmed.

3d. The average value of the matters litigated, and the nature of the dispute; the situation of the parties, particularly in cases in any way respecting the rent of the land, whether paid to Government, or to Zemindars, or other holders of land.

73. Having thus signified to you our sentiments and instructions respecting the system of civil judicature within the territory under your authority, it remains for us to pursue the same course with reference to the administration of police. We have, in a foregoing part of this dispatch, taken occasion to speak of the hereditary influence which the Potails and Curnums possess within their communities, and of the intimate knowledge they must necessarily have of the individuals residing within them. These village superintendants are aided in the performance of their police functions by two officers, generally known by the names of Taliar and Totie, who properly form part of every village establishment, and who, like the Potail and Curnum, and all other public servants on such establishments, are supported by enams or mauniums, and other emoluments derived from the inhabitants of their respective villages.

74. It is to these officers that Colonel Munro has referred us in his paper of observations to which we have already alluded, and in which he states that, "in every village in India there are hereditary watchmen, whose business it is "to guard the property of the inhabitants and travellers from depredation, and "to exert themselves in recovering it when stolen, and that there is, perhaps, "no race of men in the world who are equally dexterous in discovering "thieves; that they are maintained by the produce of an enam land, by a "trifling tax on each house, and by a small allowance from travellers when "they watch their property at night; that no war or calamity can make them "abandon their inheritance; that if driven from it they always return again, "and often live in the village when every other person has forsaken it; and "that this long and constant residence, together with their habits of life, "makes them perfectly acquainted with the character and means of livelihood "of every person in it."

75. The

75. The committee of general police, after having consulted with all the Judges and Magistrates, Collectors and Commercial Residents, in the districts, observe, in their report to your Government of the 24th December 1806, that "the general division of the country into villages and dependant hamlets is "well known, and the influence of the head inhabitants of their villages is "established on the broad basis of immemorial usage and prescriptive right; "that this influence had undoubtedly, in many instances, been abused, but "that the abuses, if traced, would probably be found to originate with the ruling authority; and that, as the object of the power which circumstances "lodged in the hands of these people was public utility, the inference appeared "reasonable; that it might, by proper regulations, be reformed, so as to answer the purposes of its original institution; and that to divert the controlling power of small societies from the persons in whom it was primarily and "naturally vested, and to place it in hands uninterested in the welfare of the "society, and without any influence, appeared little calculated to conciliate "the affections of the powerful, or to provide for the protection of the "weak."

76. In perfect unison with these ideas, Lord William Bentinck stated, that "the heads of villages were the most proper persons for police-officers, as having the greatest influence; that they would be pleased with the consequence "which they would derive from it; that they were the only persons acquainted "with every transaction, and who have the power, in consequence, to prevent "robbery and intrigue; and that, without the aid of this description of persons, "there could be no efficient police."

77. In the more recently acquired possessions in the Peninsula, while the duties of the Magistrate were entrusted to the Collectors, much attention appears to have been paid to the preservation of the village police, more especially in the Havelly and Circar lands, which constitute the far larger part of those possessions.

78. The Judge of Circuit of the centre division, referring to the zillah of Darapooram (comprehending the northern and southern divisions of Coimbatore), reported to you, at the conclusion of the first session of 1812, that he had "an opportunity of observing minutely the effect of the excellent arrange- "ments which had been introduced by the Magistrate for preserving the peace "of the district, and securing the property of the inhabitants; that the advan- "tages which had resulted from it were manifest in the general prosperity and "apparent happiness that seemed to reign in every village that he passed "through: that the police-officers were active at their stations, and the vil- "lagers equally prompt in their co-operation for carrying into effect the orders "of the magistrate; that the consequence was, that few crimes were commit- "ted in the zillah, and when they did occur, such was the promptitude of pur- "suit, that it was scarcely possible for the offenders to escape from the grasp "of justice."

79. The same testimony is borne by the same gentleman, in his report on the zillah of Verdachellum, as well as by Mr. Thackery, in his report of 1807. We may add, also, that further proof is to be found in the reports on the state of the districts of Malabar and Canara, and of the southern Pollams, long the scenes of every species of disorder and outrage.

80. On this subject, too, we must particularly point out to your attention the sentiments of the Select Committee of the House of Commons on East-India Affairs, as contained in their fifth report, in which you will find much to support and confirm what we have advanced in this dispatch respecting the village police. In concluding their remarks on this point, they declare that they "looked to the revival of the talliary office in every village as the best "security of internal police."

81. It is the strongest possible recommendation of the talliary police, that it secures the aid and co-operation of the people at large in the support and furtherance of its operations, because it is pursued in a mode which adapts itself to their customs and usages, and to that scheme of internal polity, by which society among them has been held together from the earliest ages: and we are firmly persuaded that any system which has been, or may be resorted to, for the

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the general management of the police of the country, which is not built on that foundation, must be radically defective in its construction, and inadequate to accomplish its intended purposes.

82. We are well aware that, in the Northern Circars and in the Western Pollams, where the possessions of the Zemindars are extensive, and where they had long exercised an arbitrary sway, it is not to be expected that any efforts of the Company's servants in the general change of the civil administration should be at once, or very soon, felt. But we nevertheless consider it to be perfectly consistent with the nature and principles of the permanent settlement, whenever it has been introduced, and to be an object for which, indeed, specific provision was made at the time, to interpose, when occasion may require, for the reformation and suppression of any great and prominent evils which go to frustrate the purposes and ends of all good government: nor can we conceive any thing to have a nearer concern with good government, and the interest and welfare of the country, than the preservation of social order and tranquillity.

83. This, we apprehend, never can be effected by the feeble operations of a few Darogahs and Peons stationed through an extensive tract of country, wanting in local influence and connection with the people, insufficiently remunerated to induce respectable men to accept the office, placed beyond the sight and control of the Magistrate, and surrounded with various temptations to betray their trust; yet such appear to be the only instruments by which the details of the police are conducted in the Zemindarry countries. This system has had a fair trial under the Bengal Government; and wherever, as has been the case through the greater part of the provinces, the Magistrates have had no other agency to depend upon for the maintenance of the public peace and order than that of Darogahs and Peons, the consequence has been that open and daring robberies, and every other kind of individual outrage, have prevailed, to an extent which has rendered the persons and property of the inhabitants utterly insecure.

84. We must, therefore, call your serious attention to the necessity of taking measures, in the Zemindarry countries, for the purpose of re-establishing this village police, agreeably to the usage of the country, and of placing it under the orders and control of the Magistrate; and we further direct that, in such other parts of the Madras possessions in which it may be found neglected or in a mutilated condition, it be also restored to its former efficiency.

85. The services which will be rendered to the Magistrates by this police agency, when placed on the footing we have described, and made to form an immediate branch of our system of government, will, we are satisfied, enable you not only to reduce the greater part of the present Darogah establishment, but also effect a considerable reduction of the police corps still maintained by your Government at a heavy expense, and which nothing but the inefficient condition of the civil police could have justified to the extent they have been employed.

86. We have, as directly connected with the important question here discussed, bestowed much attention on the arguments which have been alleged by the Committee of general Police, for formally investing the Zemindars with the nominal, but honorary distinction of a superior authority within their own limits, which should vest in them the recommendation of the Darogahs; but the actual appointment of such officers to be in the Magistrate, the individuals so appointed to be paid by the government. If we could encourage the expectation that such an arrangement as the Committee have pointed out would have the effect of removing any disposition which this description of persons may, at present, feel, to obstruct rather than to support our measures of internal administration, more particularly those of the police, it would be the strongest possible recommendation in its behalf: but we must own, that the failure of all endeavours of a similar nature under the Bengal Government furnishes us with but little expectation that they would, in the present instance, answer any useful end.

87. To exclude them, however, altogether from a system which is to depend, in so great a degree, upon native agency, would be mortifying to them, and

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and not improbably excite their endeavours to frustrate the intended object. We shall not, therefore, object to your availing yourselves of their influence in the support of the police, in the manner which has been described, nor even to investing them with actual authority for that purpose, in such particular cases in which, from the respectability of their characters and their disposition to co-operate in promoting the views of Government, you may deem them fit persons to be entrusted with the powers of an agent of police.

88. There is another point which we deem of essential and indispensable importance to the vigorous administration of the police, on which it is highly necessary that we should put you in the possession of our sentiments. We refer to the expediency of transferring the superintendence and control of the police of the zillahs to the Collectors of the Revenue, with whom it formerly rested. A proposition to this effect was strongly recommended to the adoption of your Government, during the administration of Lord William Bentinck, by the Committee of general Police, in their report, to which we have already referred. It then met the decided approbation of his Lordship; and when the subject came before us, we, in our judicial letter of the 31st January 1810, recommended it to your serious consideration.

89. It is quite evident to our minds, that the Collectors of Districts are the only persons who can effectually command the village police, and regulate and control their conduct and proceedings. The Amildar, or Collector, under a native Government, invariably administers the affairs of police as well as superintends the revenues; and among his subordinate agents for the performance of these twofold duties are the Potails and Curnums, and the Talliary police officers. In almost every instance, as, we believe, in the British possessions in India, where the system of realizing the land-revenue is by village or by ryotwar settlements, the Potail and Curnum act as the servants of the Collector, and receive the revenue from the actual cultivators within their villages; and under a Zemindarry settlement they are employed in the same business, with this only difference, that in this latter case they are employed under the immediate orders of the Zemindar or his people. The services of the Talliar and Totie are, also, still required in conducting the details of the revenue under the Potail and Curnum.

90. To place, therefore, the superintendance of the revenue and of the police in the hands of separate individuals, must necessarily produce a collision and clashing of authorities between them, in the exercise of their respective functions; for both must mainly rest on the agency of the village officers, who being equally at the call of either, their services may be required at the same instant by both. This, while it must distract the subordinate agent, must in some degree affect the operations of the Magistrates and of the Collector. These two branches of the service are, therefore, paralyzed by a separation of powers and authorities, which under every native Government, and even under our own, till of late years, were united in one person; an arrangement which had its origin in the necessary and unavoidable connection which has been established by immemorial usage in India, between police and revenue duties.

91. We have lately received the report of Colonel Munro to the Committee of general Police, which we directed you to transmit to us in our public letter of the 9th July 1812, and we have found in it much to strengthen and confirm our opinions and views on the above point.

92. In your letter in the Judicial department, of the 29th February 1812, you have, in reply to our dispatch of the 31st January 1810, stated your reasons for having thought proper to negative the proposition of the Committee of Police for uniting these authorities in the Collectors.

93. The great objection which you have urged against the proposed measure is, that "it would be a departure from the fundamental principles of the present constitution of the Government." We are not disposed, at present, to enter upon the question, generally, as to the union of revenue and judicial power; but we are satisfied that such a union may safely, and indeed advantageously, be adopted with reference to revenue and police functions.

 94. As

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94. As to the additional expense that would attend the execution of the measure in question, which you have also alleged as a reason against its adoption, we are sanguine in the expectation that an efficient village-police, placed under the immediate superintendence of the Collector, would so greatly improve the internal order and quiet of the country, that, as we have already observed, the services of the Darogah establishments and of the police corps, which are maintained in some parts of the country at no small charge, might be gradually dispensed with. We are particularly led to entertain this expectation, as well from what has been stated on this subject by the Committee of General Police, to which we called your attention in our Judicial letter of the 31st January 1810, as by Colonel Munro, in his paper of communications already referred to, and by Colonel Wilks, in his "Sketch of the South of India." By Colonel Munro it is observed, that "by reverting to the village institutions, an expen-"sive police, which has been formed within these few years and is still in-"creasing, might be abolished, as not only useless but vexatious to the country: "that there was already an ancient system of police in India, which answered "every useful purpose, and which required no other aid, unless that of being "restored where it may have been destroyed by violence." By Colonel Wilks it is affirmed, that "the new establishments of police, in which such large sums "have been unnecessarily expended, might be entirely reduced, by putting "into activity the admirable institution of village officers, instead of attempting "to destroy that excellent instrument of police, of which," he adds, "I speak, "not from vague tradition of what it has been, but from a close observation of "what it is."

95. Though we disapprove of the Darogah branch of the existing system of police, as ineffectual and ill adapted to its intended purpose, we are thoroughly satisfied of the necessity of some intermediate link of agency between the Magistrate and the village officers, under whose authority and control the latter should be more directly placed. The Tehsildars of districts form a part of the regular establishment of the Collector, to whom we propose to transfer the duties of Magistrates: and as, in their subordinate administration of the revenues of their districts, they are closely connected, and in constant communication with the Potails and other village officers, they at once appear the fittest substitutes that can possibly be provided for the Darogahs. By adding the functions of police to the revenue duties they at present discharge (and both invariably belong to them under a native Government), you will completely effect that union of the two departments which is, in our firm persuasion, alone compatible, in an Asiatic country, with the efficacy and vigour of either. We conceive that all the arguments and considerations which have been urged in favour of vesting the general superintendence of the police in the Collector, equally apply in principle to the employment of the Tehsildars, as their immediate agents in this latter branch of the public service.

96. Under all the circumstances and considerations which we have here brought forward, supported and established, as they are, by such highly respectable authorities, we are confirmed in the opinion, that the arrangement we have proposed respecting the police is the best that it is practicable to devise.

97. The agents of the Collector in the administration of the police will be the district Aumildars or Tehsildars, and the village Potails, Curnums, and Talliars, aided as occasion may require by the Aumildars' Peons, and by the Cutwals and their Peons in large towns.

98. We shall now furnish you with our ideas on some points connected with the administration of criminal justice.

99. We consider it to be one great advantage which will attend the modifications of the existing system of civil judicature which we have instructed you to adopt, that they will so much relieve the Judges of the provincial courts from the duties which they now have to discharge in hearing appeals from the decisions of the zillah Judges, as to leave them little more to attend to than the criminal business of the circuits, which we find had induced you, in the year 1808, to empower the Nizamut Adawlut occasionally to dispense with the periodical vacations of those courts, and which, we further perceive, from the preamble

preamble of Regulation I. of 1811, had, in some instances, been so heavy, that the half-yearly circuits had not been completed before the arrival of the period fixed for the commencement of the ensuing circuit.

100. It is, however, but too evident, that the great extent of the local jurisdictions of the courts of circuit must still, in various ways, act as a serious impediment to the vigorous execution of the criminal laws. The Committee of General Police, in stating their sentiments on the judicial code, have observed that, amongst other defects, it has the disadvantage of deterring and discouraging persons from informing against or prosecuting public offenders, by "the expense and loss of time attending a prosecution, which instead of "producing benefit to them, adds to their misfortunes." This disinclination to prosecute, and the impunity with which, in consequence of it, offenders too often escape the punishment due to them, necessarily give a confidence to the dishonest and depraved part of the community, in the commission of crimes and misdemeanours which must sensibly increase their number. It is further stated by the Committee of Police, that the mode of "administering "criminal justice under the system of half-yearly gaol deliveries is so tardy "(we should rather say the quantity of business to be got through is so great), "that petty offenders, who are only sentenced to imprisonment for two or "three months, as the punishment of their crimes, may be four or five months "in confinement before they are put upon their trial, and that the period of "punishment prescribed by the law is thus postponed to so late a date after the "commission of the crime, that the advantage of the example is lost."

101. It was these considerations which induced the Committee to recommend that the zillah Judges, Collectors, and Commercial Residents should be empowered to hold quarterly sessions, for the trial of offences which might not be of sufficient magnitude to require being postponed until the arrival of the court of circuit.

102. By Regulation I. of 1811, you have specially provided for the holding of quarterly sessions in the zillahs of Mazulipatam, Chittoor, Trichinopoly, and North Malabar, by one of the provincial judges not engaged in the half-yearly circuit. We are strongly of opinion that it would very much conduce to the more prompt and convenient administration of criminal justice, if the zillah Judges were to be so far invested with a jurisdiction in criminal matters, as to enable them to hear and determine all cases of public offence not of a capital nature, and now cognizable by the courts of circuit only, which might be brought before them by the Collector in his magisterial capacity, with a limitation in regard to corporal punishment of fifty rattans; in regard to fines, to two hundred Arcot Rupees; and as to imprisonment, to one year. We also conceive, that the same desirable and important end would be materially furthered, were the Collectors acting as the Magistrates of zillahs to be empowered to punish offenders by corporal punishment, to the extent of thirty rattans, by fine not exceeding one hundred Arcot rupees, and by imprisonment not of longer duration than three months. We are not prepared to recommend that the Collector should be associated with the zillah Judge in the trial of offences at quarterly sessions; but we think this is matter worthy of consideration: and if you should deem the measure expedient, we authorize you to adopt it.

103. It is also matter worthy of your consideration, whether, in criminal cases, the sentence of the provincial courts of circuit may not be carried into immediate execution, without a reference to the Nizamut Adawlut, when the guilt is clearly established, and there seems to the Circuit Judge no ground for recommending the prisoner to mercy; and, with the same view of expediting the administration of the criminal law, whether the present forms of proceeding in the courts of circuit will not admit of simplifications, consistent with the substantial ends of justice.

104. In addition to the advantage which we contemplate from the employment of the Collectors in the administration of criminal justice, we are satisfied of the necessity of that arrangement, from a reference to the letter from Bengal of the 2d January 1813,* which informs us that the judicial establishment

* Error—Public Letter from Bengal, 18th December 1812.

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ment of that presidency urgently requires that an assistant should be added to the Register at each of the stations of the zillah and city magistrates; and that, of sixty writers required to be sent out this season, in addition to the usual number annually furnished, thirty-nine are expressly stated to be wanted for the judicial department. The finances of the Company are certainly not equal to the pressure of such an establishment; and we trust that, by the improved system of judicial administration which you are directed to carry into execution, you will be enabled at once to abolish the office of assistant Judge.

105. We cannot pass by this opportunity of recalling to your attention the observations contained in our Revenue Letter of the 16th December 1812, as to the enforcement of the Regulations concerning Pottahs. A strict observance of that Regulation would tend, we are convinced, equally to the benefit of the landholders and their tenants, by rendering their respective rights and obligations more certain: it would facilitate the adjustment of disputes concerning rent or cultivation, and would thereby operate as an additional relief to the courts of justice.

106. We trust that, in consequence of our former reference to this subject, it has already occupied your attention. We are of opinion, also, that the Regulations relating to distraints require revision and amendment. The power of distraint without judicial process, which is given by regulation XXVIII. of 1802, is admitted to be one of the severest oppressions to which Ryots and others can be exposed. The pottah Regulations duly observed, would afford the best safeguard against such oppression, and would have the effect of preventing, in a great degree, those disputes respecting rent by which the country is so frequently disturbed. The enforcement, and the means of carrying it into execution, ought to be secured by an adequate process.

107. The superintendence of this matter naturally falls to the Collector in his magisterial capacity, whose duty it should be, with the assistance of the native officers under him, to take cognizance of any breach of this Regulation, whether by the refusal or neglect to grant pottahs. No demand of a Zemindar, &c. for arrears of rent should be receivable in any court, but on a pottah; nor should he be at liberty to proceed to sell under distraint, without an order from the Collector, founded, if that should be necessary, upon a report from the Potail or Tehsildar, and the village and district punchayet, respectively.

108. In furnishing you with these instructions for the enforcement of pottahs, we think it proper, at the same time, to declare, that we by no means intend that the Zemindar should be released from the provisions of the existing law, as to the rates of assessment on the land; but that he be equally liable, as before, to the penalties attendant upon an infringement of them.

109. In another numerous class of cases described in Regulation XXXII. of 1802, viz. those of disputed boundaries, the Collector should have the nominal jurisdiction, that is, he or his subordinate officers, according to the extent, should decide them on the verdict of a punchayet. We see no other mode of settling such litigated points in a satisfactory manner.

110. We have only further to add to this dispatch our particular injunction, that in any Regulations which you may pass for the purpose of notifying the alterations of system we have prescribed, they may be expressed in a style and in a language the most familiar to the comprehension of the natives, and divested of technical terms borrowed from the legal forms and phrases of our judicatures in this country; and that you also employ the best practicable means of circulating them among the inhabitants, and of rendering them acquainted with the nature of such Regulations.

We are, &c.

(Signed) W. F. ELPHINSTONE,
J. INGLIS,
&c. &c.

London, 29 April, 1814.

JUDICIAL

JUDICIAL LETTER *from the* COURT *of* DIRECTORS *to the* GOVERNMENT *of* FORT ST. GEORGE,

Dated the 4th May, 1814.

Judicial Letter to Madras, 4 May 1814.

Par. 1. In our Revenue dispatch of the 2d May 1804, we called your attention to the advantages which might be derived from the occasional employment of a committee of our servants, to examine into the state and condition of the provinces under your Government, and to report to you fully upon every subject connected with their prosperity.

2. The modification in the present system of internal administration, pointed out in our Judicial Letter of the 29th ultimo, will render it particularly desirable that you should have recourse to a similar measure, for carrying into execution the orders and instructions contained in that letter. This commission to be limited to three years, unless the Government represent to the Court of Directors the necessity for its further duration.

3. Colonel Thomas Munro, who returns to Madras by the fleet now under dispatch, appears to us to be peculiarly qualified to act at the head of whatever commission you may judge it necessary to appoint, and we therefore direct that he may be nominated as first in the commission, with a salary of 10,000 Pagodas a year, in addition to his travelling and other necessary expenses, the account of which must be verified in the way prescribed with regard to similar charges under the political residencies.

4. The extensive knowledge and experience of Colonel Munro in the interior administration of affairs under your presidency, have induced us to deviate, in this particular instance, from the rule which we have laid down, of not employing military officers in civil situations: we therefore direct, that whatever other appointments may be made by you, shall be filled from our covenanted civil servants, and that the allowances to be granted to them may not exceed what you may deem to be a reasonable remuneration for their services.

5. You will not fail to transmit to us, by the earliest opportunity, such reports as you may from time to time receive from Colonel Munro, and from the other Gentlemen who may be employed on this important service.

We are, &c.

(Signed) W. J. ELPHINSTONE,
J. INGLIS,
&c. &c. &c.

London, 4 May, 1814.

LETTER *from* SECRETARY *to* MADRAS GOVERNMENT *to* SECRETARY *at the* INDIA-HOUSE,

Dated the 1st October, 1814.

Letter from Secretary to Government, 1 October 1814.

To James Cobb, Esq. Secretary at the India-House.

Sir:

With reference to the general letter to the Honourable the Court of Directors in the Revenue Department, dated 12th ultimo, I am directed by the Right Honourable the Governor in Council to request, that you will lay before the Honourable Court the enclosed copy of a report, which has been received from the Sudder Adawlut since that letter was closed. In pursuance of the intention expressed in the twenty-eighth paragraph of that letter, the Governor in Council would have accompanied the report of the Sudder Adawlut with such observations regarding the operation, the expense, and the effects of the judicial system, regarding the degree in which it has accomplished the object of its introduction, namely, to render the administration of justice, both civil and criminal, not merely pure and efficient, as concerning the character of the Judges, but also free from the controul of those to whom the interests of Government are committed, and finally regarding the improvements of which the suggestions of the Honourable Court and the results of experience might

 have

Letter from Secretary to Government, 1 October 1814.

have shown the system to be susceptible. But considering the instructions conveyed in the letters from the Honourable Court, dated the 29th of April and 4th of May 1814, the Governor in Council conceives that such observations will come from him more fitly on some future occasion. The Governor in Council thinks, however, that it will be agreeable to the Honourable Court, that the report which had been prepared by the Sudder Adawlut, in ignorance of the nature of those instructions, should be transmitted to them by the earliest opportunity.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) D. HILL, Secretary to Government.

Fort St. George, 1st October 1814.

REPORT *of* SUDDER ADAWLUT,
Dated 26th July 1814.

To the Secretary to the Government in the Judicial Department.

Report of Sudder Adawlut, 26 July 1814.

SIR:

I am directed by the Sudder Adawlut to transmit to you the accompanying extract from the court's proceedings of this date, with the several papers therein referred to, and to request you will lay them before the Honourable the Governor in Council.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) W. OLIVER, Register.

Sudder Adawlut, Register's Office,
26th July 1814.

Extract from the Proceedings of the Sudder Adawlut, under date 26th July 1814.

Par. 1. The Court resume the consideration of the reports of cases decided by the several Courts in the last year, and of the suits remaining on the files of the several Courts of Judicature on the 1st of January 1814.

(Here enter the general abstract statement, submitted to the Court under date the 22d April last.)

2. Also read again the letters from the several Zillah Judges, reporting their opinions respecting the expediency of increasing the number and extending the powers of the native Commissioners.

(Here enter Nos. 466, 492, 500, 522, 526, 546, 558, 565, 556, 580, 636, 705, and 843, of 1813; and Nos. 118, 126, 127, 133, 139, and 250, of 1814.)

3. Also read again letter dated the 16th July 1813, from the Provincial Court for the Centre Division, forwarding draft of a Regulation proposed by the Judge of Chittoor for increasing the jurisdiction of the native Commissioners.

(Here enter No. 543 of 1813.)

4. Also read again letter dated the 8th June 1813, from the Chief Secretary to Government, enclosing extract of a letter from the Court of Directors, dated the 16th December 1812, relative to the judicial system.

(Here enter No. 422 of 1813.)

5. Read again, also, letter dated the 22d June 1813, from the Chief Secretary to Government, enclosing extract of a letter dated the 15th August 1807,

Report of Sudder Adawlut; 26 July 1814.

1807* from the late principal Collector in the Ceded Districts, concerning the judicial system.

(Here enter No. 439 of 1813.)

6. Also read again letter dated the 15th October 1813, from the Judge of the zillah of Bellary, submitting his opinion with regard to certain inconveniences and defects pointed out by the late principal Collector of the Ceded Districts in 1807, as existing in the judicial system.

(Here enter No. 745 of 1813.)

7. Also read letter dated the 1st July last, from the Secretary to Government in the Judicial department, enclosing extracts of a general letter from England in the Judicial department, dated the 29th October 1813, and copy of the orders of Government.

(Here enter F. A. No. 389.)

8. It appears that the whole number of suits decided by the zillah courts and inferior judicatories, in the year 1813, was 29,551, establishing an individual right in property valued at Star Pagodas 3,68,226 41 50, or Pounds Sterling 147,291 6 7; and that, in the same period, the provincial courts of appeal decided two hundred and forty-eight suits regarding property valued at Star Pagodas 3,085,41 7 74, or Pounds Sterling 123,416 11 6.

9. The total value of the property adjudicated in the several courts in the year 1813, was therefore Star Pagodas 6,76,768 4 44, or Pounds Sterling 270,707 18 1.

10. On a comparison of the business done by the several courts, as exhibited in these documents, and the work performed in the year 1812, it appears that the total number of suits decided by the zillah courts and inferior judicatories falls below the number decided in the last-mentioned period 8,622, of which deficiency 8,344 are to be found in the number decided by the native Commissioners.

11. In the provincial courts of appeal the number of original suits decided has increased from sixty in the year 1812, to seventy in the year 1813, being nineteen in favour of the latter year.

12. The Court were induced, by a view of these documents, to adopt and communicate to the several courts a rule passed by the court of Sudder Dewanny Adawlut in Bengal, that whenever the number of cases decided in any one month may fall below ten, the letter transmitting the monthly report shall contain an explanation of the causes which may occasion such diminution of the decisions by the court in which it may occur. In fixing the number of ten, the Court explained that they did not consider it as the fair average which might be expected from the zillah Judges, the assistant Judges, or the Registers to the zillah courts, but that it was their wish to make sufficient allowance for cases which take up more than the usual time in the hearing, and require more than ordinary consideration; that they would, however, allow even a less number than ten decisions, provided adequate reasons for such extraordinary diminution of the business done by the court were assigned, when forwarding the monthly return.

13. This rule was adopted by the Court, as one which might, on general principles, be considered salutary: but the Court are not prepared to say that the decisions of the inferior judicatories, diminished as they appear below those of the preceding year, have not kept pace with the fair demand of the country for litigation. A reference to the half-yearly reports of cases remaining undecided will, indeed, afford ground for inclining to the opposite opinion. The number of suits undecided at the close of the year 1812, as recorded in the proceedings of the court, under date the 19th of February 1813, was 16,178. At the end of the next half-year, or 30th June 1813, the number of cases undecided was 17,627, being an increase of 1,449; and at the termination of the next half-year, closing with the year 1813, the number remaining undecided was 17,959, being an augmentation of 332. But when it is recollected that the total number of decisions within the year, by the same tribunals, was 29,551, the

* Vide Proceedings of Board Revenue, 1808, fol 936.

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the Court do not consider the number of cases depending to exceed the proportion which will perhaps always be found on the files of courts which are not limited in the transaction of business to particular terms, but are open for the institution of suits during the whole year, excepting two months. The several authorities before which the cases remained undecided at the periods above noticed, are exhibited in the statement entered in the margin.*

14. By the report on the reports furnished by the provincial courts, it appears that the number of appealed cases depending before them had increased, in the last half-year ending 31st December 1813, by thirty-seven, and the original suits depending had diminished by five, the former amounting to four hundred and eighty-two, and the latter to one hundred and four; and that the value sued for in the one hundred and four original cases was Star Pagodas 936,137 11 31.

15. The Court deem it proper here to remark, that as the adjudication of civil suits form but one branch of the duties of the judicial officers under this presidency, the reports above noticed do not shew either the whole of the operations of the judicial institution, or the full extent of the benefits which are derived under them to the community at large.

16. The due administration of the criminal law is an object, the importance of which will not be questioned; for unless a legal mode of executing justice upon criminals be established, there can be no personal safety, and without personal safety property cannot be valuable, from the very insecurity of the possessions, and the temptation it may hold out to the commission of crime.

17. The prevention of crimes or the seizure of offenders, accordingly forms, in many zillahs, the most anxious and the most arduous part of the zillah Judges' labours. Private theft is not an evil of great prevalence, perhaps, in India: it is not an offence, moreover, which carries with it danger to the persons of individuals. But even this, by impunity, might be fostered to a magnitude injurious and oppressive to society; and every instance, therefore, in which this offence is punished by the hand of authority, may be regarded as a public benefit. The evils to which the inhabitants of this part of India are exposed, arising from the frequent convulsions it has experienced, are of a very grievous nature. Gang-robbery, attended with murder or maiming, is by no means of unfrequent occurrence; but the existence of societies called Phausigars, organized for the purpose of murdering defenceless travellers in the highways or desert places, is a fact on which it is impossible to reflect without the deepest feelings of horror. Their object is plunder; but, to secure themselves against detection, they invariably murder the person they intend to rob, and dismembering the corpse, so as to render it next to impossible that the friends of the victim should recognize it, even if early discovered, they bury it in places little likely to be discovered.

18. The existence and the proceedings of these detestable fraternities have been on a former occasion brought to the notice of Government and the Honourable Court of Directors, and the difficulty of establishing the guilt of the offenders has been stated.

19. The period during which these gangs of inhuman monsters have infested the provinces now subject to the Government of Fort St. George is not known; but,

	Appeals before Judges, from decision of		Appeals before Assistant Judges, from decision of		Original Suits before				
	Registers.	Native Commissioners.	Registers.	Native Commissioners.	Judges.	Assistant Judges.	Registers.	Native Commissioners.	TOTAL.
* Half year ending 31st December 1812	160	1,194	20	22	1,947	177	2,404	10,254	16,178
Half year ending 30th June 1813	205	1,381	11	21	1,931	186	2,286	11,666	17,627
Half year ending 31st December 1813	233	1,497	11	23	1,824	178	2,481	11,712	17,959

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but, according to the confessions of some who have come forward under offers of pardon, it must have a remote origin. The vigilance of the several Magistrates has been for some time exerted, to discover and secure the persons engaged in these infernal practices; but it is not to be expected that any ordinary measures will be successful in putting a stop to this enormous evil, which has prevailed through successive Governments, and it may become necessary to resort to the adoption of particular expedients, calculated to suppress this atrocious devastation of the human race.

20. The court have it in contemplation to call on the several Magistrates in whose jurisdictions the crime of phausigarry is understood to have been most prevalent, to propose the measures which may appear to them best calculated to put a stop to this destructive evil, drawing up their propositions in the form of a Regulation, and forwarding it through the prescribed channel of the provincial courts.

21. The enormity of this offence has claimed for it the first place in the observations of the court; but the records of the criminal courts furnish evidence too abundant, that exclusively of the diabolical operations of the phausigars, the crime of murder is by no means uncommon in the peninsula of India.

22. In no instance has the court of Foujdary Adawlut passed a sentence of capital punishment, where the crime committed has been less than murder; and since the operations of the court commenced, in 1803, no less than eight hundred and twenty-two persons have suffered death under the hands of the public executioner; numerous are the other cases in which the offenders would have suffered the same fate, under the verdict of an English jury; but the scrupulous exactness of evidence required by the Mahomedan law to found a capital sentence, has saved their lives, and they have been transported, or sentenced to punishments of less extent.

23. If the object of all criminal law be to deter people from the commission of crimes by the example of punishment, and if that example be allowed in any one instance to be beneficial, it cannot be contended, that the judicial system has not proved beneficial to the inhabitants, in the proportion which the number of detections and punishments of the crime of murder bear to the number of known cases in which that crime has been perpetrated; for before the courts of judicature were established there existed no tribunal competent to try a charge of murder committed by natives, beyond the local jurisdiction of Madras. On persons guilty of minor offences, Collectors ventured, on their own responsibility, to inflict a discretionary punishment, for the benefit of people entrusted to their charge; but no Collector would be hardy enough to inflict any punishment for homicide beyond imprisonment, and the very enormity of murder insured its comparative impunity.

24. The encouragement which this want of power in the agents of Government held out to the great landholders to inflict heavy punishments on offenders of their own authority, and even to commit atrocious crimes, may be readily imagined. Some of the actual perpetrators of murder have been tried and convicted, and have suffered the punishment due to their crimes, which they had committed in obedience to the orders of wealthy land-holders; and these examples shew the extent to which this cause had operated, in depraving the minds of the rich and fixing the obedience of their dependents.

25. This state of things was terminated by the establishment of the judicial system; and the capital convictions which have taken place since that period, are conclusive evidence of the evils to which society was exposed previously to its introduction.

26. It may not be altogether useless to take a view of the operations of the judicial system in the criminal department, from its first institution.

27. It has been noticed, in former proceedings of this court, that the judicial system was introduced in the year 1802; but it can hardly be said to have taken effect at all until the year 1803.

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28. The number of persons apprehended, however, in the former year, by the Magistrate of the zillahs of Chingleput and Guntoor, was one hundred and seventy-eight.

29. In the year 1803, the number of persons apprehended by the Magistrates and Collectors acting as Magistrates was 1,922; of which six hundred and thirty-four were brought before the courts of circuit, and one hundred and ninety-three received the sentence of the court of Foujdarry Adawlut, which was death in the cases of seventy-seven.

30. In the year 1804, the number of persons apprehended by the Magistrates and Collectors acting as Magistrates was 3,181; of which 1,391 were brought before the courts of circuit, and four hundred and eighty-nine received the sentence of the court of Foujdarry Adawlut, which was death in the cases of one hundred and forty-one.

31. In the year 1805, the number of persons apprehended by the Magistrates and Collectors acting as Magistrates was 3,528; of which 1,305 were brought before the court of circuit, and three hundred and fifty-nine received the sentence of the court of Foujdarry Adawlut, which was death in the cases of one hundred and seventy-five.

32. In the year 1806, the number of persons apprehended by the Magistrates and Collectors acting as Magistrates was 6,731; of which 1,507 were brought before the courts of circuit, and two hundred and forty-one received the sentence of the court of Foujdarry Adawlut, which was death in the cases of ninety-two.

33. In this year a Regulation was passed for the general establishment of courts of judicature, and towards the close of the year the Collectors were relieved entirely from the duties of the judicial department.

34. In the year 1807, the number of persons apprehended was 15,053; of which 2,291 were brought before the courts of circuit, and two hundred and thirty received the sentence of the court of Foujdarry Adawlut, which was death in the cases of seventy-two.

35. In the year 1808, the number of persons apprehended was 13,180; of which 2,144 were brought before the courts of circuit, and two hundred and eighty-eight received the sentence of the court of Foujdarry Adawlut, which was death in the cases of sixty-five.

36. In the year 1809, the number of persons apprehended was 11,647; of which 1,875 were brought before the courts of circuit, and one hundred and seventy-two received the sentence of the court of Foujdarry Adawlut, which was death in the cases of forty-seven.

37. In the year 1810, the number of persons apprehended was 14,934; of which 1,854 were brought before the courts of circuit, and two hundred and seventy seven received the sentence of the court of Foujdarry Adawlut, which was death in the cases of forty-eight.

38. In the year 1811, the number of persons apprehended was 15,180; of which 2,314 were brought before the courts of circuit, and two hundred and ninety nine received the sentence of the court of Foujdarry Adawlut, which was death in the cases of forty-five.

39. In the year 1812, the number of persons apprehended was 19,135; of which 2,359 were brought before the court of circuit, and two hundred and sixty-one received the sentence of the court of Foujdarry Adawlut, which was death in the cases of twenty-nine.

40. In the year 1813, the number of persons apprehended was 29,005; of which 2,222 were brought before the courts of circuit, and three hundred and nine received the sentence of the court of Foujdarry Adawlut, which was death in the cases of thirty-one.

41. The foregoing numbers are taken from reports compiled from the monthly returns of the several magistrates, and from the calendars forwarded by the Judges of the courts of circuit and the records of the court of Foujdarry

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darry Adawlut. They cannot be perfectly accurate, as the prisoners confined towards the close of any one year must, of necessity, be brought before the court of circuit at the first sessions in the following year; but as they exhibit the operations of the system for a series of years, they may be regarded as sufficiently correct for the purposes of general comparison.

42. It appears that the number of offenders apprehended has increased considerably since the first introduction of the system, but it does not appear that the number of criminals brought before the courts of circuit have increased in a similar proportion; and those who have been sentenced by the court of Foujdarry Adawlut have been less in number within these few years, than they were at an early period after the establishment of the courts.

43. This result shews that the labours of the Magistrate have considerably increased, either from the multiplication of crimes, the activity of the police, or the encouragement held out to the injured to complain.

44. In former proceedings the court noticed the opinion of the Judges of Circuit, that crimes had diminished; and with regard to the more heinous offences, the foregoing summary of the operations of the system may be admitted as evidence of the truth of this opinion. That it is equally conclusive with regard to the minor offences cannot be affirmed; but it is at least as far from conclusive against their having multiplied under the operation of the judicial system. The constitution of society disconnected from that system, is the same as it has been for ages; and it is not to be concluded, that crimes were not committed because they were not noticed and punished.

45. The principal object of the governments which preceded the British in India, was to draw the largest possible revenue from the country, in order to maintain extensive military establishments. The comfort and happiness of the governed were little regarded, and were ever sacrificed to the main object; and in the pursuit of it measures were adopted of the most capricious and arbitrary nature, which produced and nurtured every kind of abuse and undermined all moral feelings. To a government ever labouring under a total derangement of its finances, and impelled by wants which it could not satisfy, the perpetration of crimes which are the bane of society was, and ever must be, a matter of little interest; and it was only in particular instances of flagrant and glaring outrage, that a feeble and capricious effort was called forth, on the part of the officers of Government, to discover and punish the offender, who if discovered might not find it very difficult to escape from punishment.

46. Even after the transfer of these territories to the authority of the British Government, the earliest measures of the internal administration were directed to secure the collection of the revenue. The administration of justice and the punishment of crimes formed but a secondary part of the duty of a Collector: the first legitimate object of Government, the benefit of the governed, was still only a secondary consideration.

47. To argue on the defects of such a system were superfluous. Whether the system which has been adopted with a view to remedy them is the best that could be devised, or whether it will admit of improvement, are separate questions, to which due consideration will be given.

48. The letter from Colonel Munro,* under date the 15th of August 1807, from which extracts were forwarded to the Court with the letter from the Chief Secretary to Government, dated the 22d of June 1813, contains an anticipation of evils to result to the inhabitants of the Ceded Districts from the introduction of the judicial system; and the letter from the Honourable Court of Directors, dated the 16th of December 1812, manifests an inclination to adopt the measures proposed by Colonel Munro, under a belief that those evils had actually occurred under the judicial system which had been introduced at so much expense.

49. For information on this subject, the Court deemed it their duty to call on the Judges of the zillahs of Cuddapah and Bellary. The latter officer had been employed under Colonel Munro in the revenue administration of the Ceded

* See proceedings of Board of Revenue, 4th February 1808, fol. 936

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Ceded Districts before the introduction of the judicial system, and the Court expected to receive an ample communication of the result of his experience and observation in both departments.

50. Mr. Bruce has stated, that the inconveniences pointed out by Colonel Munro, " do continue to be felt in the zillah of Bellary, but from different " causes, though not by any means whatever to the extent which they did, " when every kind of authority, legislative and executive, was confounded in " the person of a single Collector, when the system was conducted by indi- " viduals without established laws or regulations for their guidance, and every " thing directed by their own free will and caprice."

51. Mr. Bruce proceeds to ascribe the inconveniences which are now felt to the expenses of prosecution, and to the laws not being sufficiently known to the people, in consequence of the Judges being restricted to their principal stations, and not permitted at any time to make the circuit of their zillahs, which he thinks they ought to do to all the principal towns of their divisions, at least once in every two years, for the purpose of making the Regulations understood. He states great injustice and oppression to be exercised towards the inhabitants of villages remote from the court, to which they would not submit if they were acquainted with the Regulations.

52 Mr. Bruce proceeds to state the number of causes decided by the tribunals under his superintendence and authority, and to contrast with them the number of appeals; exhibiting such convincing proof of the satisfaction with which the operations of the present institutions are regarded by the natives of that zillah, at least, that the Court are induced to enter an abstract of it on their proceedings.

53. From this statement it appears, that of 1,075 suits decided by the Judge and acting Judge, only twenty were appealed.

54. Of 1,722 suits decided by the Register, but seventy-five were appealed.

55. Of 5,835 suits decided by the native Commissioners, only ninety-three were appealed.

56. Mr. Bruce adduces a calculation, to which the Court beg leave to refer, shewing the total number of persons usually in attendance on the several tribunals at one time; which, compared with the population of the zillah, must have the most inconsiderable influence on its cultivation, industry, and trade.

Sic. orig.

57. He states, also, an important fact; that the file of the court of the zillah of Bellary, like the files of all the other courts under this presidency, is oppressed with a load of suits, which originated long prior to the establishment of the present judicial system, at least as far back as the Regulations would admit of their being filed.

58. Another important fact stated in the twelfth paragraph of the letter is, that in not a single instance has an individual applied to him for a punchayet.

59. Mr. Bruce assigns as a reason for the apparent predilection of the natives for this mode of trial by punchayets, under the former revenue administration, " that they had no other alternative, that they knew of no other measures by " which justice could be obtained, nor were they allowed to have any other. " Few causes were investigated by Collectors, either *ab origine* or in appeal. " They simply issued an order for the establishment of a punchayet when com- " plaints were preferred to them; and if its decision did not satisfy the parties, " they would afford them as many more trials of this description, as they " thought proper to require."

60. This Mr. Bruce asserts on the authority of his own experience in the Revenue department; and he adds his opinion unequivocally, that the proceedings of those tribunals were unjust and corrupt, while the various avocations of the Collector left him not leisure to controul or correct them.

61. He observes, that the inconveniences which the ryots must have felt on the first establishment of the zillah courts, from the necessity of proceeding to a great distance to make their complaint has been removed in civil cases, by the

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the appointment of native Commissioners for the trial of civil suits; an arrangement which had not taken place in the zillah of Bellary in the year 1807: and he adds, that the Judge now decides no case under five hundred, and the Register none under one hundred Rupees; and these are sums for which the cultivating Ryots can seldom be prosecutors in a zillah court. The advantages therefore, he adds, which they in particular have derived from the establishment of these jurisdictions could not be fully or practically appreciated in 1807; and he expects, as his establishment of native commissioners is now nearly completed, that the decision of causes will not, for the future (if the demand should be so great), be less than seven thousand per annum, which will perhaps exceed the total number of all the cases decided in the Ceded Districts during the whole time "their judicial jurisdiction was under the "control of the Revenue department." There are twenty districts in the zillah, and he calculates on each Commissioner settling at the average rate of thirty causes per month.

62. Mr Bruce expresses himself "at a loss to account for any circumstance "which should render bribery more extensive in its operation now, than when "the whole authority of Government was vested in one man. The vast power "exercised by persons under the old revenue system was like that of royalty "itself, and their servants must have resembled the state ministers of a great "despotic prince."

63. With regard to the Vakeels, or pleaders, Mr Bruce states, that "he has "generally found them very faithful in the discharge of their duties. They "are sometimes negligent, but cases of treachery towards their clients seldom "occur.

64. "Erroneous decisions in old causes," he observes, "may have occa-"sionally taken place; a circumstance inseparable from the mystery and con-"fusion in which they were involved: but since the introduction of the new "system, proceedings in society have become much more regular and correct. "Bonds, receipts, and all other acts which can render transactions legal and "binding, have now been generally adopted, and the decision of cases has "consequently become comparatively easy and simple."

65. Mr. Bruce further states, that no suit for the recovery of money, founded on a Tunkha or a bond obtained in consequence of it, has ever, to his knowledge, been filed in the court; and if it had, he thinks he should probably have dismissed it.

66. Having stated the information afforded by the Judge of the zillah of Bellary, regarding the inconveniences anticipated by Colonel Munro as likely to result to the inhabitants of the Ceded Districts from the introduction of the judicial system, the Court proceed to record some observations on the extracts which have been furnished to them from that officer's letter, dated the 15th of August 1807.

67. The evils denounced in the 20th paragraph (being the first in order of those communicated to the court), as likely to increase rather than to diminish, are delay, vexation, bribery, and wrong decisions. Delay is the evil particularly treated of; and the paragraph concludes with an observation, that "justice can hardly be said to be administered, when it proceeds so slowly as "not to keep pace, in any degree, with the demands of the country."

68. The information afforded by the Judge of Bellary, that his file groans under the weight of old causes, which have arisen as far back as the Regulations would permit him to file the suit, if it prove any thing at all, proves that under the former system of revenue management, the administration of justice did not keep pace with the demands of the country; that there was a delay at least equal to the limited period allowed by the Regulations for preferring claims. The Court have not the means of knowing to what more remote period the delay may have extended.

69. But, it will be said, the delay was the act of the claimants, who did not prefer their suits, not in the adjudication of them. It may be answered, that there must have been something in the former system, which they dreaded more than delay, or they would not have submitted to the latter. Even if it be

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be suggested, that they delayed preferring their claims under the expectation of a new order of things, the suggestion implies no predilection for the system which then existed, no eagerness to resort to the adjudication of a punchayet, which they knew would be allowed on application to the Collector. They come forward now, not merely in spite of the delay, but also in spite of the expences to which litigation is subjected. An improvement therefore, however small the extent of it, may be inferred to have taken place in the administration of justice.

70. In the twenty-first paragraph it is supposed that all classes of the inhabitants will be exposed to great vexation, from being liable to be summoned to the zillah court station in every trifling suit, and to be detained there a long time; and the Ryots are described as being most liable to be injured by this cause.

71. The facilities which have been provided for the decision of small suits on the spot, which will be hereafter noticed, render particular observations on this paragraph unnecessary; but the Court cannot avoid remarking, that Colonel Munro appears either to have overlooked the hardship of leaving a creditor without the means of recovering his property, or to have considered it no hardship at all.

72. The additional checks on the institution of groundless and litigious suits, which have been provided in the primary expenses to which they are subjected, were unknown to Colonel Munro.

73. In the twenty-second paragraph it is predicted, that bribery will be more general than formerly, on account of the facilities to concealment, arising from the distribution of justice being in the hands of fewer persons, who will be worse paid; and as they will not be watched by the numerous servants of a district Cutcherree, they will have both a stronger inducement to betray their trust, and a greater facility in eluding detection.

74. This argument appears to the Court to rest on the supposition, that the native Commissioners are to be persons having no other means of subsistence than what they may derive from the fees collected on their decisions: an error which a very superficial reading of the Regulations will suffice to detect. The best answer, however, to the predicted evils is, that of 5,835 suits decided by the native Commissioners, only ninety-three have been appealed.

75. In the twenty-third paragraph it is anticipated that erroneous decisions will be more frequent, because almost every suit, instead of being determined, as heretofore, by a punchayet, will come before the Judge, who is supposed to possess the best abilities, and to be at the same time incompetent to decide between truth and falsehood, when coming from the mouth of a native witness. This supposition is raised on another, that it will be impossible for any European to acquire so critical a knowledge of the native language, as to detect the ambiguous expressions in which falsehood is insinuated, or truth suppressed. Thence is inferred a necessity for the Judge requiring explanation from the officers of the court, and trusting to their opinion; and to insure the triumph of injustice, all hope of the Judge deriving any assistance from the arguments of the pleaders is destroyed by the supposition that it is *most probable* that these men will agree among themselves, and divide all fees, and care very little which of the parties in the suit is successful.

76. The acknowledged talents and acquirements, and moreover the practical experience of Colonel Munro in the internal administration of the provinces under the government of Fort St. George, claim for these suppositions a degree of consideration, above that to which they would otherwise be thought entitled. The order in which they appear in the paragraph referred to would seem to manifest a strange misapprehension of the ordinary proceedings of a court of judicature.

77. The Judge would seem to be supposed to blunder through the examinations of the witnesses brought before him, without a knowledge of the objects for which they may be brought, or of the point to which they may be able to speak; and after requiring an explanation from his officers and adopting their opinion, to turn without hope to the Vakeels to assist him in correcting an

erroneous

erroneous judgment, because previous collusion had made them indifferent to the issue of the cause.

78. This is not the usual course of proceeding in the British courts of judicature, to which those recently established in India were intended to be assimilated, as far as the essential differences in the respective constitutions would permit; and why he should ascribe to the local courts this course of proceeding, which could have no intelligible object, and which must render the employment of Vakeels worse than nugatory, is unaccountable.

79. He appears to have overlooked or forgotten Section 17, Regulation III. of 1802, by which "the Judges of zillah courts are strictly enjoined not to order or allow of a report of any matters of fact relating to any cause depending before them, with the view to the passing of a decree, to be made to them by any officer of the court, or any other person, excepting in cases in which special authority for that purpose may be given to the courts by any Regulation."

80. If this provision had been within his recollection, and he had adverted to the solemn obligation by which the Judges bind themselves to administer justice conformably to the Regulations, the Court conclude that he would not have stated a supposition, which could not be realized except by a general infringement of that obligation, and a fatal dereliction of principle in every judicial officer. Its occurrence being provided against, the Court deem it unnecessary to dwell longer on the supposition.

81. The supposed general collusion of the pleaders, whatever support it may derive from the knowledge possessed by Colonel Munro of the character of the inhabitants of the Ceded Districts, is obviously founded on a misapprehension of the duties of these persons. If he had recollected that their duty was to prepare the pleadings and to produce the evidence to support their pleadings; that it is *their* duty, not the Judge's, to examine the witness, to point out in what degree his evidence supports their pleadings, and to detect and expose the weakness of the testimony produced on the opposite side, and that the discharge of this duty must precede the forming of a decision by the Judge, he would have found that there was abundant room for the operation of competition; and he would have concluded, that those who felt a competency in their own exertions to secure to themselves the largest share of the fees payable on account of suits decided in the court to which they belonged, would feel no inducement to enter into a collusion, which might restrict their receipts to the same amount as that received by pleaders of the lowest capacity, but which could not increase them by one rupee.

82. To say that corruption will not exist in any description of men, would perhaps be more absurd than to declare its general prevalence, without admitting a single exception, as most probable; and no doubt instances have occurred, and will occur, in which Vakeels, as well as other men, may follow a mistaken policy. But this objection applies to every human institution, and can only be urged with reason or force against such as unnecessarily hold out temptations to a dereliction of duty, public or private. Had Colonel Munro pointed out that this temptation existed in the situation of the pleaders, as constituted by the Regulations, it would have been the bounden duty of the court to have given the fullest consideration to his representation, and to have suggested the measures which might have appeared to their judgment to be best calculated to remedy the evil: but when what he has stated amounts to no more than his opinion, that these men will most probably enter into a collusion, while it is manifest that such collusion would be injurious to their own individual interests, a formal refutation of it cannot be necessary.

83. The twenty-fourth paragraph takes a wider scope of inference regarding the consequences to be apprehended from the suppositious evils, for which Colonel Munro fears no complete remedy can be found; but the most effectual one, "in his opinion," would be, to the trial by jury, termed by the natives punchayet or subba, according to their respective languages. The judicial code, he observes, in civil cases, authorizes trial by referees, arbitrators, and Moonsiffs, but says nothing of the trial by punchayet; and he adds, "it seems strange that this code, which has been framed expressly for the benefit of the "natives,

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"natives, should omit entirely the only mode of trial which is general and "popular among them, and regarded as fair and legal; for there can be "no doubt that the trial by punchayet is as much the common law of India in "civil matters, as that by jury is of England. No native thinks that justice is "done where it is not adopted; and in appeals of causes formerly settled, "whether under a native government or under the Company previous to the "establishment of the courts, the reason assigned, in almost every instance, "was that the decision was not given by a punchayet, but by a public officer, "or by persons acting under his influence or sitting in his presence." These assertions are broad and unqualified, and would therefore naturally be supposed to be founded on deep study and accurate research; yet so far as they apply to the code of Regulations, they are evidently unsupported. So erroneous is his description of the judicial code, it cannot easily be believed that he has read so far as Regulation XXI. of 1802; for he would there have met with a particular Regulation, in which the Government describes itself as desirous to promote the reference of suits of certain descriptions to arbitration, and to encourage people of credit and character to act as arbitrators. It may, perhaps, be necessary to explain, that a punchayet was and is nothing more or less than an arbitration; that it could only express its opinion, and never possessed authority to enforce its award. The term punchayet, indeed, is a Sanscrit derivation of number, signifying five, which might be extended until, as described by Colonel Munro, it amounted to fifty. Regulation XXI. of 1802 undoubtedly gives a preference to the arbitration of an individual, when the parties consent to such a reference, in causes of small amount at least; but section 5 of the Regulation provides for a reference to three or more, being an odd number, which includes five beyond all controversy; and section 6 gives to this assembly a power, which it never possessed before, of ordering a fine to be levied from any person guilty of a contempt of its authority, provided the Judge of the zillah court should not see cause to withhold his assent to such order. Is it possible, with this Regulation before us, to admit the proposition, that "the natives cannot, with any "foundation, be said to be judged by their own laws, while the trial by punchayet, to which they have always been accustomed, is done away?"

84. With regard to the appeals of causes formerly settled being, in almost every instance, made on the ground, that the decision had not been given by a punchayet, Colonel Munro has not stated the authority on which this assertion is made, and the Court are therefore unable to follow him; but there are yet the means of weighing this assertion, and ascertaining its validity, without danger of a very erroneous conclusion.

85. In the first place, if the decision have been passed by a competent authority, the suit cannot be entertained by a zillah court. Under section 10 of Regulation II. of 1802, the party in whose favour the former decision is made may always plead it in bar to a subsequent suit; and the first point for the determination of the court would be the competency or incompetency of the tribunal by which the decision may have been passed. This proceeding would certainly have marked suits of this description, if any such had been brought into court.

86. In the second place, it is to be concluded that the complaint, that a punchayet had not been granted on a former occasion, would be accompanied by an application for a punchayet; for it is not to be supposed that all the Ryots in the Ceded Districts had read the regulations, even if they were published in the dialect of those districts, which they are not, and drawn the same inference with Colonel Munro, that their ancient and revered institution of punchayet was done away. It is next to impossible to believe that they should come forward with a complaint, that a punchayet had not been allowed them under the former authority, and yet not apply for a punchayet under the present. We have, however, the assertion of Mr. Bruce, the Judge of Bellary, as positive as a professed reliance on memory will admit, that in not a single instance has an application been made to him for a punchayet.

87. The twenty-fifth paragraph would appear to be answered by the fact, that not a single application has been made to the Judge for a punchayet, under the circumstances described in that paragraph; but admitting that they exist

exist as described, is it desirable that those circumstances should continue? Is confusion preferable to regularity? or is it for the advantage of the Ryot that he should pay three times the amount of his debt, and after all be liable to be detained by his creditor, and be obliged to resort to a tedious arbitration to ascertain if he has not more to pay? If it be not desirable that this course of things should continue, the reform of them must have a commencement; and according to the Judge of Bellary, the reform has commenced, without any of the evils anticipated by Colonel Munro. He reports, that "since the introduction of the new system, proceedings in society have been much more regular, "and correct bonds, receipts, and all other acts which can render transactions "legal and binding, have now been generally adopted; and the decision of "causes has consequently become comparatively easy and simple."

88. The twenty-sixth paragraph of Colonel Munro's letter is disposed of like the twenty-fifth, by the fact, that no suit has been brought forward corresponding with his apprehensions.

89. The inferences which the Court draw from the foregoing examination of the information furnished by the Judge and Magistrate of the zillah of Bellary, compared with the opinions of Colonel Munro, are:

First. That the administration of Colonel Munro, however ably and zealously directed, did not, in the zillah of Bellary at least, "keep pace in any "degree with the demands of the country" in the judicial department.

Secondly. That, according to his own reasoning, therefore, justice could hardly be said to be administered, and that a reform of the administration was consequently as essential to the comfort and security of the people, as to the reputation and interest of government.

Thirdly. That the evils anticipated by Colonel Munro as likely to result, or rather pronounced, with the confidence of certainty, as the natural result of the introduction of the judicial system into the Ceded Districts, have not arisen.

90. The Court are indeed persuaded, that if Colonel Munro could see the actual operation of the judicial system in the Ceded Districts, under which the Judge states that the evils that were experienced during the superintendence of that officer, have been diminished, he would feel a satisfaction, in proportion to the apprehensions he entertained of any opposite result.

91. Whether the judicial system, as now established, may not be improved by simplifying its forms of process, or enlarging the jurisdiction of the inferior judicatories, is a separate question, on which the Court have endeavoured to procure information, and they now proceed to take into consideration the reports of the several zillah Judges on the subject. Uniformity of opinion was not to be expected, and they will accordingly be found to differ considerably.

92. Of the five Judges in the northern division, the Judge of the zillah of Ganjam states the duty of the native Commissioners to be discharged in a manner scandalous to the judicial establishment, and constituting an obstruction to, instead of aiding, the operations of the zillah court. From this description he excepts the law officer of the court, in his capacity of Sudder Aumeen; but he knows no other persons in the zillah who are fit to be trusted: and the number of causes referable to Commissioners is not so great as to require an augmentation of their number, or an enlargement of their jurisdiction.

93. The Judge of the neighbouring zillah of Vizagapatam does not consider any change to be necessary, the business of his zillah not being in arrear.

94. The Judge of the zillah of Rajahmundry recommends, that the jurisdiction of the Sudder Aumeens should be enlarged to suits of two hundred rupees, which he proposes to make referable to the Register, with a right of appeal to the Judge.

95. This modification, he thinks, would be sufficient, without the appointment of other native Commissioners; and he further proposes, that the jurisdiction of the Register be extended to suits for the value of seven hundred rupees.

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96. The Judge of the zillah of Masulipatam proposes to extend the jurisdiction of the native Commissioners, appointed under Regulations XVI of 1802 and VII of 1809, to suits for sums of money not exceeding one hundred Arcot rupees, and he thinks it both practicable and desirable to increase the number in that zillah.

97. The Judge of the zillah of Nellore reports, that all his endeavours to persuade persons of respectability to become Commissioners have failed.

98. In the centre division there are four zillah Judges.

99. The Judge of the zillah of Cuddapah is of opinion, that a large number of native Commissioners may be useful; and he proposes to divide them into three classes, having jurisdiction in suits of gradational amount varying from sixty rupees, and under in the lowest class to ninety in the second, and from that to a hundred and ten, or even to a hundred and forty. He also proposes a scale of promotion, and transfer of the commissioners from one zillah to another, and a system of practical encouragement to a faithful discharge of the duties of the office, and of discouragement and reprobation to negligent or improper conduct, which the court consider it unnecessary to detail here.

100. The Judge of the zillah court of Bellary is of opinion, that the jurisdiction of the native Commissioners should be extended to suits of one, or even of two hundred rupees, and that they should all possess the powers of Moonsiff.

101. There are twenty talooks in his zillah, and he thinks that one Moonsiff at the principal town in each talook would be sufficient.

102. Few Ryots will have suits for the sums above specified; and he thinks it a severe hardship on them, that they should be compelled, for that amount, to repair from a considerable distance to the station of the Court, and undergo all the expenses incident to the institution of a suit in that tribunal.

103. The Judge in the zillah of Chittoor refers to his opinion forwarded through the provincial court for the centre division, regarding the expediency of enlarging the jurisdiction of the native Commissioners.

104. The Regulation is approved by the provincial court. It provides three modes of affording relief to the zillah courts, and expediting the determination of civil suits.

First, By authorizing the Judges, after obtaining the permission of the court of Sudder Adawlut, to refer to the Sudder Aumeens appeals from the decisions of the other native Commissioners, when the cause of action may be personal property, not exceeding in amount or value forty Arcot rupees; or for the property or possession of land, the annual produce of which, if malguzary, may not be above forty Arcot rupees, or more than four rupees if Lackherage; or for any other description of property, the value of which may not exceed forty Arcot rupees.

Secondly, By enlarging the jurisdiction of the Sudder Aumeens in the trial of original suits for personal property, to an amount or value not exceeding two hundred Arcot rupees; and in suits for real property, to amounts corresponding with the proportionate distinctions prescribed by the Regulations.

Thirdly, By granting the Moonsiffs, referees, and arbitrators, jurisdiction in suits for the property or possession of land, the produce of which, if Malguzary, may not exceed eighty Arcot rupees, or eight if Lakherage.

105. These are the principal provisions. Those of subsidiary detail will be noticed in their proper place.

106. The Judge in the zillah of Chingleput recommends, that the jurisdiction of the Moonsiff should be extended to suits for money or other personal property, of amount or value not exceeding one hundred Arcot rupees, and that the jurisdiction of the Sudder Aumeens shall be extended, in suits for money or other personal property, to an amount or value not exceeding one hundred and fifty Arcot rupees.

107. The powers of the referees or arbitrators he does not wish to have extended, or to increase their number.

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108. The communication from the late Judge of the zillah of Verdachellum is confined to disapprobation, expressed in general terms, of the description of persons of which the native Commissioners in his zillah are composed, and to his apprehension that to enlarge the jurisdiction of the native Commissioners would seem to be enhancing a trust already too great for the integrity to which it is confided.

110. The Judge in the zillah of Salem does not consider any increase to the number of the native Commissioners in his zillah as necessary, but recommends certain modifications of their jurisdictions, enlarging them in some cases to one hundred and twenty Arcot rupees, and in others to one hundred Arcot rupees.

111. The Judge of the zillah of Darapooram is of opinion, that an enlargement of the jurisdiction of the native Commissioners is not necessary, and that it cannot with safety be extended to cases of more than one hundred rupees value.

112. He describes most of the cases which come before him as being under eighty rupees.

113. The Judge of the zillah of Combaconum is of opinion, that the jurisdiction of the Sudder Aumeens should be increased to cases of two hundred rupees value.

114. The Judge of the zillah of Madura is of opinion, that it is unnecessary to enlarge the jurisdiction of the native Commissioners, or to increase their number.

115. The Judge of the zillah of Tinnevelly merely reports, that it is unnecessary to add to the number of native Commissioners in the zillah under his charge. His opinion, that it is equally unnecessary to enlarge the jurisdiction of the present native Commissioners, is inferred.

116. The Judge of the zillah of Trichinopoly recommends that the jurisdiction of the head native Commissioners should be extended to suits regarding Malguzarry land, the annual produce of which may not exceed one hundred and fifty Arcot rupees, or regarding Lakerage, the annual produce of which may not exceed ten rupees.

117. He further proposes, that the other Commissioners should have jurisdiction in cases of personal property to the extent of one hundred rupees.

118. In the western division there are four zillah Judges:

119. The Judge of the zillah of Canara represents, that the native Commissioners in the zillah under his charge have been in the habit of practising various abuses, compelling the lower classes to work without remuneration, and "beat-"ing and confining them if they make opposition or remonstance, forcibly pos-"sessing themselves of the estates of the higher (classes), and extorting from "them the necessaries of life, and other commodities, at an inferior price than "that the article bears in the market. These are the irregularities practised "in their private capacity, and which owe their success to the influence derived "from the public situations these officers enjoy."

120. "Such," says the Judge, "are the abuses to which the system has "been liable in Canara; abuses which the influence of the Commissioners, the "apathy of the sufferers, and the formality of civil procedure, will always ren-"der extremely difficult of legal proof." He adds, "I have urged those, "whose interest may have suffered, to come forward and prosecute their op-"pressors; but I lament to say, that I have hitherto experienced an insuper-"able aversion to complaint. I shall still continue my endeavours, and shall "bring to the notice of the Sudder court all those Commissioners against "whom individual delinquency is finally substantiated."

121. These are the reasons on which the Judge founds a decided opinion, that the interest of the community, as well as those of the Government, will be best promoted, by reducing the present number of Commissioners, and by confining within as narrow limits as possible the vast influence their public situations have been found to confer.

122. He

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122. He considers the Regulation as inefficient and objectionable. His first objection is to the peculiar nature of their emoluments, which are the institution fees on the causes decided by them, or withdrawn by razeenamah, and are therefore, in his opinion, made entirely to depend upon the spirit of litigation which prevails in their respective jurisdictions. It becomes, therefore, an object of serious moment to introduce this spirit where it does not exist, and to keep it alive when it commences to fail. Their receipts depending upon the number of causes referred to them for decision, no means are left untried to supply the file with a constant succession of suits. Claims long since become antiquated have been renewed in the absence of more recent matter; "and "when these have failed, no doubt recourse has been had to fraud and inven- "tion, to set up demands, which, whether just or otherwise, must in either case "enrich the Commissioner and support him in office. The means of effecting "all this, if not immediately derived from, are undoubtedly greatly assisted by "that provision of the Regulations, which requires that the jurisdiction of each "Commissioner should be confined to that district in which his possessions are "situated; in which indeed, as is generally the case in Canara, he has probably "resided from his earliest infancy.

123. "The Canara file," he states, "affords abundant proof of the evils to "which the institution is subject. Petty suits, which previous to the appoint- "ment of these officers were comparatively few, increased considerably on "their introduction, while the subjects of these suits become daily more and "more objectionable; circumstances which clearly evince that the public inte- "rests have been impeded by those means which were considered calculated to "effect their advancement."

124. The Court have quoted Mr. Wilson's letter at considerable length, because, from the facts stated in his letter, they deduce inferences materially differing from his decided opinion.

125. It is not easy to reconcile a spirit of litigation with the apathy ascribed to the inhabitants of Canara; or correct and equitable proceedings, with the practice of investigating litigious and vexatious or fraudulent suits. It is not easy to believe that the people who will institute against each other petty suits, groundless in their nature and of doubtful issue, will acquiesce in the decision of a Commissioner, however equitable, or submit in silence to injuries inflicted by him; nor is it to be readily credited, that the Commissioners who resort to the most mean and despicable practices to promote the institution of suits of whatever description will be generally correct and equitable in their decisions. Yet the Judge informs us, that petty suits have multiplied to an injurious extent, and that he has been unable to prevail upon any of those who have suffered from the oppressions of the native Commissioners to make a complaint against any one of them. Referring for further evidence regarding the conduct of the native Commissioners, generally, to the reports of causes decided and depending before the Judge, in appeal from their decisions, the Court find that in the former report they bear the proportion of thirty-two to nine hundred and twenty, that the appeals depending before the Judge at the end of the year were one hundred and thirty-three, while the total number of suits depending before the native Commissioners was 4,886.

126. With regard to the nature of the petty suits, it is not stated in what respect they are objectionable; and the increase of the number instituted, while the number of appeals from the decisions of the native Commissioners continues to be limited to a moderate proportion, appears to the court to evince that justice is more speedily and better administered than formerly, and that the change is justly appreciated by the inhabitants of the zillah of Canara.

127. This the Court consider to be a more correct general inference, than that the number of petty suits has been increased by the instigation of the Commissioners, although it may be within the knowledge of the Judge that, in particular instances, this proceeding has been resorted to. A general application of particular facts may lead to considerable error in questions of this nature; and it is quite unnecessary to resort to it in this case, in which the supposed impetus would be amply furnished by a confidence in the proceedings of the present judicial establishment.

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128. The opinion of the Judge in the zillah of North Malabar is unfavourable to an increase of the number or enlargement of the jurisdiction of the native Commissioners, appointed under the provisions of Regulation XVI. A. D. 1802; the number of appeals from their decisions, added to the mode of their proceedings, as observed in fifteen cases, and various other circumstances, exciting an apprehension, "that any increase of their powers would "only add to the duties of the zillah court."

129. On referring to the report of causes decided in 1813, the Court find that the number of decisions on appeals from the judgments passed by the native Commissioners in this zillah was thirty-one; and that the number of cases decided or dismissed in the same period by the native Commissioners was eight hundred and seventy-one; that one hundred and nineteen appeals from the decisions passed by these officers remained in the Judge's court untried, and that the number depending before the native Commissioners was nine hundred and sixty-five.

130. The application of the principles of the Regulation for the appointment of the Mahomedan and Hindoo law officers of the Court to be Sudder Aumeens, may, in the opinion of the Judge, be extended, with the expectation of a considerable amelioration in the administration of justice, by giving commissions to the most respectable Cauzee and Namboory (Malabar Bramin) of each talook, in preference to continuing the present Commissioners. Their education, and the estimation in which they are held by the community, he observes, particularly qualify them for the situation, and it is reasonable to suppose that they would be less liable to be corrupt and partial than any other description of persons.

131. Under such an arrangement, he thinks the jurisdiction of the subordinate judicatories might be extended with great safety to personal property as far as one hundred rupees, and for the property or possession of land the annual produce of which may not be more than ten rupees, or for any other description of real property the computed value of which may not exceed one hundred Arcot rupees.

132. As in suits regarding points of law, a reference to the law officers of the court would be attended with considerable delay. To obviate this, and in view to preserve the utmost impartiality in their proceedings, the Judge proposes that where the parties may be Mahomedans the case shall be tried by the Cauzee, and where Hindoos by the Namboory; while in those cases where one party was a Mahomedan and the other a Hindoo, the plaintiff shall have his option before which of the Commissioners to prefer his complaint

133. Adverting to the number of undecided causes, the Judge was of opinion that the power of the Sudder Aumeens might be safely, and with considerable advantage, extended to suits for personal and real property as far as two hundred rupees.

134. This provision, the Judge states, would relieve the Register of a great number of causes referred to him, and tend much to the speedy determination of causes pending before the Judge, by enabling him to employ the Register in taking down depositions of witnesses, when he may not find time to examine them *viva voce*.

135. The opinion of the Judge in the zillah of South Malabar being founded on the experience of the Commissioners' proceedings for no more than five months, and that confined to the minor commissions of referee and arbitrator, no Moonsiffs having been appointed, the Court deem it sufficient to observe, that he considers their labours to have been useful, and that he recommends an extension of their jurisdiction to suits for one hundred rupees.

136. In the zillah of Cochin the appointment of Commissioners has not been found necessary; nor have any been employed in the zillah of Seringapatam.

137. Thus it appears, that of nineteen Judges, in whose zillah native Commissioners have been appointed under Regulation XVI of 1802, eight are adverse to increasing their number or enlarging their jurisdiction; and of these eight, two, the Judge of the zillah of Ganjam and the Judge of the zillah of Canara,

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Canara, speak in terms of strong disapprobation of their proceedings. A third, indeed, the late Judge of the zillah of Verdachellum, may be added to this number; although the expression he has used would appear to apply more particularly to the description of persons selected for the appointment, than to the nature of the office.

138. Of the other eleven Judges, one, the Judge of Nellore, has been unable to prevail on any persons of respectability to accept the appointment.

139. The ten Judges of the zillahs of Rajahmundry, Masulipatam, Cuddapah, Bellary, Chittoor, Chingleput, Salem, Cambaconum, Trichinopoly, and South Malabar, recommend extension and modification of the jurisdictions of the native Commissioners, varying to two hundred rupees.

140. The testimony of the Judges regarding the operation of the present system of native judicature would appear, from the foregoing summary, to preponderate numerically but little in favour of its extension; but a distinction must be drawn between those who regard the native agency which has been employed as pernicious, and those who consider the extension of it as unnecessary.

141. This division will reduce the actual opponents of the system of native agency authorized by the Regulations to two, the Judge of the zillah of Ganjam and the Judge of the zillah of Canara. The former describes the conduct of the native Commissioners generally, with the exception of the law officer of his court, to have been a scandal to the judicial department; the latter has made a report on the individual misconduct of a large number of Commissioners, which will require a separate consideration. It is sufficient for the subject at present before the court to observe, that of nineteen zillahs in which the system has been introduced, the number in which it is stated to have had a prejudicial effect amounts only to two, or at the most to three, including the zillah of Verdachellum, the late Judge of which has surmized that the trust has been greater than the integrity of the individual to whom it has been confided.

142. The number of zillahs in which it is thought unnecessary to increase the number, or enlarge the jurisdiction of the native Commissioners, amounts to six. Vizagapatam, in which the Judge states that there are no arrears; Nellore, where no persons have been found to accept the office; Darapooram (now Coimbatoor), in which the Judge describes the suits to be usually for sums under eighty rupees, obviously requiring no enlargement of the jurisdiction of the native Commissioners; Madura, where it is simply stated to be unnecessary; Tinnevelly, where the Judge states an increase to the number to be unnecessary; and North Malabar, where the Judge objects to increasing the number or enlarging the jurisdiction of the native Commissioners on their present footing: but as he recommends a more extensive application of the principles of the Regulations constituting the law officers of the courts to be Commissioners *ex officio*, this zillah ought to be subducted from this class, leaving it at five, and should be transferred, to increase the number of zillahs, in which an extension of native agency in the distribution of justice is thought desirable to eleven.

143. With so large a disproportion, indeed, as sixteen zillahs, in which benefit has been derived from the employment of native agency in the administration of justice, to three zillahs, in which an opposite effect has been experienced, it is not easy to believe that native agency cannot be relied on in those zillahs also; it is more natural to imagine, that an error has happened in the selection of persons to fill the office of Commissioner. To say that the administration of justice, through the medium of native agency, is an unattainable object, would indeed be equivalent to a declaration, that the population of India has sunk to the lowest and most deplorable state of vice and depravity: a declaration which could never be deliberately made, without the most incontrovertible and unvaried experience of its truth; but to which Colonel Munro has very nearly advanced, in his endeavour to make out the impossibility of an European administering justice in India.

144. It is, indeed, much to be regretted, that when Colonel Munro undertook to recommend the restoration of native punchayets, as preferable to the administration

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administration of justice under the superintendence of Europeans, he did not define the powers with which those tribunals were formerly invested, and those which, in his judgment, should be continued to them; the mode of assembling them, the means by which he proposed that their authority should be supported and their decrees enforced, the checks to be established to defend them from the influence of bribery and corruption, and the measure of punishment to be inflicted on them if they yielded to it. His system would then have been fairly before the public, and it might have been duly appreciated with comparative facility. But his paper is, in these respects, very loose and unsatisfactory. His assumptions in favour of the punchayet cannot be admitted, without maintaining the doctrine that responsibility divided amongst five or fifty is more binding and more readily enforced, than when it is undertaken by a single individual; and the preference of willingness to support the truth, which is ascribed to the punchayet, contrasted with the officers of the zillah court, has no foundation left to it by the Regulations, which prohibit a Judge from allowing any officer of his court to have a voice on any occasion. To close the remarks on this subject, all the boasted advantages of the punchayet sink to the ground before the single fact, that since the establishment of the judicial system there has not been an application for one in the zillah of Bellary, formerly under the charge of Colonel Munro, although acquiescence in a claim of this nature is amply provided for in the Regulations.

145. The impracticability of administering justice to a large population by the unaided agency of a single European Judge, is amply acknowledged in the provisions which the Regulations contain for referring suits to natives, and investing native Commissioners with judicial powers; and it does appear strange, that the idea that such an object was *neither* considered desirable or attainable, should have been imputed to the system by Colonel Munro.

146. The zillah courts have original jurisdiction in suits for sums of money or personal property not exceeding five thousand rupees, but exceeding two hundred rupees in value, and in suits for sums of smaller amount their jurisdiction is appellate; and the number of cases which are carried in appeal from the decision of the native Commissioners to the zillah court, prove either that this appellate jurisdiction is a public benefit, or that it is a public evil. If the native judicial authorities are invariably both pure and free from error in their decisions, they cannot require correction or revision by a superior authority. If such were the state of individual morals, and such the perfection of human intellect in India, then indeed the appellate jurisdiction vested in the zillah courts must be an evil, as tending unnecessarily to delay the final determination of suits, and to promote a spirit of litigation.

147. But does the description Colonel Munro has given of the character of the population of the Ceded Districts encourage the expectation, that the perfection of morals and of intellectual faculties is to be commonly found in those districts? Does it not, on the contrary, point out in a forcible manner, that the frailties of human nature are at least as commonly abundant in those districts as in any other part of India, or in the world at large; and that the common necessity for the wholesome restraints of law, to introduce and maintain the relations of civilized life, exists as strongly in the Ceded Districts as in any other part of the inhabited world?

148. Does Colonel Munro mean seriously to stand forward as the advocate for perpetuating that confusion and perplexity, which he has described as arising from the ignorance and confidence of the Ryots on the one hand, and the fradulent impositions of the Curnums on the other? It would naturally be inferred from the expressions he has used, that this was his intention; but can it be believed, or if it may be believed that such was his intention, can the reasonableness of the position be generally acquiesced in, without maintaining that irregularity, confusion, and consequent poverty and idleness, are preferable to order, economy, and industry?

149. The Judge of the zillah of Bellary informs us, that the dealings of individuals have assumed a regularity not known before the introduction of the courts, and that every transaction is now defined by legal documents which facilitate the decision of causes; a consequence which, in the opinion of the Court,

Court, cannot fail to have a beneficial effect on the operations of commerce, and on the agricultural industry of the districts. But the beneficial reform, if it be allowed to be beneficial, and as such the Court consider it, must, as before observed, have a commencement; and even if that commencement were, as described by Colonel Munro, attended by an advantage given to the knowing over the ignorant, that advantage has long ago ceased, and the observance of regularity in future must be beneficial to all parties.

150. Allowing, however, for the sake of argument, what no fact that has come to the knowledge of the Court will warrant, that these objects of civil jurisprudence might have been completely attained through the agency of punchayets, as between individuals, it must be asked, by what tribunal suits, in which Government might be a party, should be tried? Is the Collector to appear before a punchayet as the representative of Government? Will the executive powers vested in the hands of the Collector, uncontrolled by any visible authority, have no influence over the minds of the punchayet? Are punchayets to determine disputes regarding the revenue and rates of assessment; or is the Collector to be the Judge in his own cause, and determine the matter at his discretion? This would be reverting to that state of things, which it is declared in the Regulations to be the first object of the judicial system to do away. This would be to support a doctrine which has been condemned in all ages, except under arbitrary government, whose measures have invariably tended to weaken and impoverish themselves.

151. Without some authority to stand between the executive officers of the Government and its subjects, and to decide on the equity of the case, where disputes may arise, the interests of the subject must be exposed to suffer injury from the malversation, the caprice, the negligence, or the ignorance of an executive officer; and it is a self-evident proposition, that the wealth of the subjects constitutes the wealth of the sovereign. Any measure, therefore, which is injurious to the interests of the subject is injurious also to the interests of the sovereign.

152. It is foreign to the duty of the Court to examine how far the evil principles of an arbitrary Government were mitigated in their operation under the management of Colonel Munro; but it is the duty of the Court to observe, that the arbitrary control over the industry of the country, exercised under his authority, is no where sanctioned by the Regulations, and cannot be continued under the judicial system.

153. Whether this operation of the system will be ultimately beneficial or prejudicial to the revenue, is a question on which the Court are not called upon to deliver an opinion; but as the emancipation of the cultivators from acts of arbitrary authority, leaving those who were not in a condition of slavery to seek the reward of their own labour where they conceived they could best obtain it, formed a prominent feature of the system when it was introduced into Bengal, the Court must conclude it was intended to be adopted here, and that the operation of self-interest was intended to be relied on as the strongest stimulus to the human mind.

154. The forced cultivation of the lands of the Ceded Districts cannot, therefore, it may at once be pronounced, be longer continued; and it is, perhaps, in this respect, that the collection of the revenue in detail may have been considered incompatible with the judicial system But it is obviously only a forced and unnatural exaction of labour that would meet with obstruction in the zillah courts, which are appointed to administer justice between man and man, and any contract voluntarily entered into for the mutual benefit of both parties, must be enforced as readily when the Government is one of the parties, as when it may be entered into by individuals.

155. The detriment which Government is likely ultimately to suffer from the operation of this principle, is not apparent to the court. If the rates of assessment, under a detailed revenue management, be such as to allow a fair reward for the labour of the husbandman, there appears little reason to apprehend that the universal law, which regulates the progress of population, will be inverted in India. Population will increase in proportion to the production of food; and

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and the accession of hands will require an extension of industry, which it will furnish the means of accomplishing, while any thing that can afford a return for labour remains to be extracted from the bowels of the earth. The particular influence which this principle may have on the public revenue, it is for the Board, at the head of that department, to consider. The Court only contend, that any system which has justice for its basis may be administered by the courts of judicature on their present constitution. They cannot obstruct the collection of a just revenue.

156. But granting that the revenue could be collected with greater facility and equal justice to the Ryots if there were no courts, it remains to be asked, how it is proposed that justice is to be dispensed to criminals? Who is to commit, who is to try them? Is the Collector to do both?

157. The Court apprehend, that the business of the Revenue department must furnish ample employment for any individual of the best abilities, unless the collectorates are narrowed to circles, which would so multiply in number as to absorb all the saving anticipated from the reunion of the Revenue and Judicial departments, if that measure were not deemed otherwise objectionable.

158. Is it the intention of Colonel Munro, that the punchayets should be employed in this department also, and be vested with authority to pass sentence of death? The reluctance with which the natives now come forward before the Magistrate to complain, may be regarded as evidence of the mode in which this duty would be discharged. It may, indeed, be asserted, that not a punchayet would be found hardy enough to pass a sentence of capital punishment. The dread of unrelenting vengeance would prevent them; and the more enormous the outrage, the less likely would they be to inflict the penalties of the law. It is by no means easy to organize a system of criminal judicature in which such agency is to be employed.

159. Colonel Munro, indeed, makes no mention of the administration of criminal justice. Did he consider the security of the persons and property of individuals from violence as of minor importance to the litigation of civil claims?

160. His whole scheme, indeed, as it is before the Court, appears to be limited to the settling of causes of small amount, and his attention must have been confined entirely to the Ceded Districts, where it appears by Mr. Bruce's report, also, that the suits are, generally speaking, for small sums. But even if his system were preferred in cases of this description, it must be remembered that there are suits involving interests of considerable magnitude, for the adjudication of which Colonel Munro's system makes no provision. The number of original causes on the files of the provincial courts at the commencement of the present year was only one hundred and four, but the amount of property in litigation was Star Pagodas 9,36,137.

161. It is not, however, the amount of the property in litigation or adjudicated that displays the utility of the courts of judicature. It is in the general tranquillity which has resulted from the introduction of the courts, that we see, in a most conspicuous light, the benefits of a regular system of internal administration, the principles of which are understood by the inhabitants of these territories, and have obtained their confidence.

162. In the zillah of the northern division, the contrast between the former distrust and turbulence, and the present confidence and tranquillity, is most striking. The court have not accounts before them to state the comparison; but they have no doubt that if information were required from the office of account of the expenses of the former military coercion of the Northern Circars, and of the present civil and military establishment employed in those provinces, the administration of a regular government, even expensive as the courts are considered to be, will be found to be the most economical.

163. In the Northern Circars, indeed, where before the establishment of the courts the Zemindars regarded themselves as princes and knew no law but their own will, the removal of the restraints of zillah courts would again subject the inhabitants of the zemindarries to the grievous oppression of arbitrary caprice, and

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and would let loose the animosities of the great families again to involve the country in blood and desolation; and the expense of the civil department, at present so seriously complained of, would most probably be considerably exceeded by military expenditure necessary to preserve order in those countries.

164. In the Ceded Districts which border on the territories of his Highness the Nizam, and which are constantly exposed to the predatory incursions of banditti, the adjudication of civil suits may be said to form but a small part of the duty of the Judges and Magistrates; and even if they were relieved from this branch of their duty by the abolition of the civil courts, supposing this measure to be practicable and to be desired by the inhabitants, some judicial officers must be charged with the cognizance of criminal offences, or the country would soon relapse into the same state of barbarity and wretchedness, in which it was transferred to the authority of the British Government.

165. A want of a sufficient number of Magistrates is, indeed, one of the defects of the system, which cannot be obviated without incurring an inconvenient expense, except by appointing all the covenanted servants of the Company, belonging to any department of the public service, to be Magistrates; and it may be a question, whether this measure might not be attended with inconvenience.

166. The importance of the duties of a Magistrate to the population within his jurisdiction is obvious. The indispensable necessity, that those duties should be correctly discharged is not less so; and the impossibility of a Collector devoting the time or attention that would be necessary to a correct discharge of this duty, appears hardly to admit a question. It is, therefore, requisite that some person should be specially charged with this duty. By the Regulations, the zillah Judges are constituted the Magistrates also of their zillahs, and thus are required to perform as much judicial labour, as is within the compass of the abilities of an individual, and more than is required of any judicial officer in Europe, more than is perhaps compatible with an efficient discharge of the trust. The Court cannot hesitate to say, that it is desirable that the duties of the Judge and of the Magistrate, as defined in the Regulations, were discharged by different persons; but the necessities of the state will not admit of the disunion of the offices. The system is, therefore, defective in the number, rather than the nature of the instruments employed in it: a circumstance which may be regarded as inseparable from foreign dominion, in which the interests of the governors and the governed can never be brought to assimilate so closely, as to admit of the adoption of the most economical system of administration. The unrestrained admission of natives to the enjoyment of power will ever be regarded as a measure pregnant with danger. The limited powers at present delegated to the native Commissioners have been represented by some of the Judges to have been abused, and the further extension of them has been deprecated, nor can the necessary superintendence over the exercise of any authority that can be delegated to them be provided for without incurring considerable expense. The scale of allowances to the officers employed in this superintendence must be calculated to embrace the double object of affording the means of maintaining a respectable appearance, so long as they shall continue to fill offices of importance in India, and of making some provision for a comfortable retirement in their native country, when the active season of life shall have passed by. A lower scale of stipend could not be considered a fair requital for the endurance of banishment in a foreign land, under the severity of a tropical sun, during the earliest and the best years of matured life. It could not reasonably claim, and must fail to insure, the zealous exertion of talents and integrity in the public service.

167. The administration of the civil government of British India must therefore be expensive, in a degree which does not admit of comparison with any European institution. Allusion has been made by the Honourable Court of Directors to the prevailing institutions of Mysore, under which it is understood that justice was administered in a respectable degree. Whether the materials exist which would afford the grounds of a correct comparison of the internal administration of the British territories with that of the territories belonging to their ally the Rajah of Mysore, the Court are uninformed; and they are equally ignorant,

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ignorant, whether the circumstances which have occurred since the publication of Colonel Wilks' work, are of a nature to excite doubts of the correctness of the information which he professedly obtained from Poorniah, the late Dewan of the Rajah of Mysore. The comparison must be drawn, if it be deemed useful or requisite, by the superior authorities, who possess the necessary information.

168. But whatever may be the result of a comparison between the expenses of the civil administration of the territories of Mysore and of the surrounding British territories, it cannot escape observation, that the security of the former is greatly dependant on that of the latter. The sovereign of Mysore is a native, and the internal administration of his territory is entrusted to native agents: there is nothing foreign but the superintendence over the political conduct of the government. Its tranquillity being insured by the supremacy of the British power, a system of internal administration might be introduced with success; and the practical expedience of extending it to the surrounding British territory remains a question of political importance, on which it is foreign to the duty of the court to enter, and on which they are incompetent to give an opinion.

169. In the British territories, the result of the operations of the courts of judicature and of the native judicatories, acting under their superintendence, shews, in the opinion of this Court, that these institutions have obtained a decided preference with the inhabitants over the former expedients of temporary assemblies of punchayets; and they cannot doubt but that it is for the interest of Government, that its power should be felt as always present, and ever active in supporting the claims of justice and in repressing the practices of the evil disposed.

170. With regard to the jurisdiction to be granted to the native judicatories subordinate to the zillah courts, the Judges, it will have been observed, are of different opinions, some considering their present powers even more than sufficient, and others recommending that they should be extended to suits for money, or other personal property, not exceeding the value of one hundred rupees, while others again recommend that the limit should be two hundred rupees. The Judge of the zillah of Chittoor recommends that an appellate jurisdiction should be granted to the Sudder Aumeens, under the special permission of the Sudder Adawlut and reference from the zillah Judge, and that their jurisdiction shall be extended to suits for real property, other than lakheraje land, of the value of two hundred rupees. The Judge of the zillah of North Malabar proposes to grant to the same Commissioners jurisdiction in suits for real property, as far as two hundred rupees.

171. It must be remarked, that this last zillah is adjacent to Canara, where the proceedings of the native Commissioners are stated to have been found injurious to the public interests; and the Judge of the zillah considers the means of effecting the mischief, if not immediately derived from, "to be "undoubtedly greatly assisted by that provision of the Regulations, which "requires that the jurisdiction of each Commissioner should be confined to that "district in which his possessions are situated."

172. The Judge in the zillah of Cuddapah has recommended, that the promotion of the Commissioners through different gradations shall be accompanied by removal from one district to another. The one has declared himself hostile to the spirit of the Regulation; the other would appear to have misunderstood its objects, which is to render the talents and acquirements of such individuals as have leisure for the pursuit and possess the confidence of their neighbours available in the dispensation of justice. The Regulation of 1802, under which they were first appointed, does not contain any provision for remunerating their labours; and the subsequent enactments, which have granted to these officers the fees levied on the suits decided by them, must be considered as intended to guard them against the expense incident to the discharge of this duty.

173. The appointment of head referee is not included in this description. The jurisdiction of this officer is more extensive than that of a Moonsiff, and it would appear to be expected that his qualifications shall be of a more profesional

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nature: the courts are, accordingly, not restricted to any particular description of persons in their selection for this office; and it is provided in favour of these officers, that in the event of the fees on the suits decided by them proving to be an inadequate compensation for the trouble and expense they may incur, a further allowance shall be granted to them on the recommendation of the zillah Judges.

174. But speaking generally, it must be desirable that native Commissioners should be selected from among those who possess property, and who therefore have an interest in encouraging the cultivators in industrious habits, provided no obstacles arise to such nomination from the personal character of the individual. The resort to an assembly termed a punchayet proceeds upon this principle; and, in the opinion of the Court, the local judicatories, whatever may be the powers ultimately confirmed to them, must be filled by resident Landholders of respectable character, where they are to be found.

175. In the opinion of the Court, the Judge of the zillah of Canara must have mistaken the cause of the evils which have been experienced in the zillah under his charge, or the inhabitants must have plunged into a depth of depravity, which it is not easy to credit; and the Judge of the zillah of Cuddapah has taken an erroneous view of the nature of the office itself, and of the means of improving its utility.

176. The extension of the jurisdiction of the native Commissioners to suits regarding real property, as proposed by the Judges of Chittoor and North Malabar, and the appellate jurisdiction recommended by the former, claim serious consideration. The proposed appellate jurisdiction appears to the Court to be objectionable, because its necessity or utility is not evident. The appeal permitted to the Register would appear sufficient, and every unnecessary innovation should be avoided. It is objectionable, also, as multiplying the number of appeals beyond what may appear absolutely necessary to the correction of erroneous decisions, must protract the litigation and postpone the ultimate decision of suits, in a degree vexatious and burdensome to the subject. The extension of the jurisdiction of the native Commissioners to suits for real property, may, the Court apprehend, afford the means of extending the abuse which the Judge of Canara has described as practised in his zillah, where the Commissioners are stated to have enlarged their landed property at the expense of their neighbours.

177. The Court are of opinion, therefore, that the jurisdiction of the native Commissioners should be confined to suits for personal property; but they are not aware of any great objection to the extending it to sums of one hundred rupees, in the case of Commissioners appointed in conformity to Regulation XVI. of 1802, and to two hundred rupees, in the case of the Sudder Aumeens. The extension of the jurisdiction of the Commissioners, in this respect, will further tend to increase the receipts of the Commissioners, which have been represented by some of the Judges as being very inadequate.

178. The advantages expected by the Judge in the zillah of North Malabar to be derived from granting commissions of Sudder Aumeen to the Cauzee and Namboory in the principal towns, may, in the opinion of the Court, be obtained by appointing them Moonsiffs, as the necessity for applying to the zillah court for an order of reference would thus be obviated; but the Court differ in opinion with the zillah Judge regarding the option of bringing a suit before either of the Commissioners, in cases where one party may be a Hindoo and the other a Mahomedan, being left with the plaintiff. The defendant must be considered to have bound himself by his own law, and the Commissioner of the same persuasion with him would therefore appear to be the proper authority to try the suit.

179. With regard to the means of shortening the litigation of suits by simplifying the forms of process, to which the attention of the Court has been called, it must be observed, that the forms of process observed under the Regulations are framed with a view to the convenience of both parties. The first process, after a plaint has been filed, is a summons to the defendant, conveying a concise notice of the plaint, and requiring him to appear on a particular day

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to make answer thereto. He is not further molested, unless it may appear necessary to secure his person in order to prevent his absconding; and where such necessity be apparent, not to adopt the measure would be unjust to the claimant. Where such necessity be not apparent, the seizure of the person of the defendant, even for the purpose of compelling him to furnish security for his appearance, has been deemed to be a harsh measure, and therefore the provision of the regulations of 1802, which required a defendant to accompany the Peon who delivered the summons, or find security for his appearance at the court on the day specified in the summons, has been relaxed by Regulation II. of 1811, and the Peon's duty is now limited to the delivery of the summons.

180. This process does not appear to require simplification: it is not harsh to the debtor, it cannot be inconvenient to the creditor. He cannot complain even of the delay, which he chuses to incur by applying to the Court, instead of claiming the friendly arbitration of neighbours. A reasonable time ought to be allowed to the defendant to make his arrangement for attending the court; for to hurry him thither, without allowing him time to make any arrangements, would bea measure of partial operation, favourable to the creditor and oppressive to the debtor.

181. On the day appointed, a copy of the plaint is given to the defendant, and he is allowed a reasonable time, at the discretion of the Court, to deliver in his answer. This rule does not appear susceptible of any alteration.

182. On the court day following the delivery of the answer, the plaintiff is permitted to reply, and the defendant is required to rejoin the same day.

183. The two latter proceedings might, perhaps, be omitted, as the parties are found generally to maintain what they have respectively asserted in the plaint and in the answer, and frequently to run into amplification, which is not otherwise to be controled than by rejecting such irregular pleadings; a measure which would be considered by the parties to be harsh, and to which the Court feel a reluctance to resort.

184. The operation of time and education must be looked to as the corrective of this inconvenience.

185. The admission of a supplemental plaint, followed by a supplemental answer, reply, and rejoinder, may also be considered unnecessary, as the plaintiff must be supposed to be fully aware of the extent of his claims before he brings them into court, and the defendant has before him the claim to which he is to answer.

186. But it must be observed, that however desirable it may appear to restrict the pleadings within the smallest possible limit, the full disclosure of the case, which is provided for in these pleadings, must facilitate the decision in appeal, and tends ultimately to accelerate the final adjudication of suits; and it may, therefore, be doubted, whether any advantage, obtained in the primary proceedings by the excession of these pleadings, would not be more than counterbalanced by the difficulties experienced, in consequence, in deciding the suits on appeal, and whether the occasions for referring suits for rehearing in the courts of original jurisdiction would not be more frequent, to the great vexation of the parties concerned.

187. The Court are therefore of opinion, that it is inexpedient to change the forms or number of the pleadings at present in use. If they are in some instances inconvenient, owing to the unskilfulness of the persons who have been admitted as pleaders in the several courts, practice will overcome the cause, and the effect will cease with it.

188. That the decision of suits shall ever be so rapid under the utmost improvement of human institutions, as to obviate all cause for complaints of delay, appears to the Court to be a vain expectation It is a complaint which has been made from the earliest of times, and will in all probability continue under any form of government to the end of time. It has been demonstrated, that punchayets are not likely to remove this evil. It appears that the people do not claim a resort to them.

 189. If

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189. If the progress of the present judicial institutions towards the ultimate determination of suits should be still thought too slow, the evil may perhaps, with some justice, be ascribed to the great latitude of appeal which is allowed, and a remedy must consequently be sought in additional restrictions on the right of appeal.

190. In suits for personal property of the amount to which it is proposed that the jurisdiction of the native Commissioners shall extend, a single appeal would appear sufficient for the correction of error; and the court are of opinion, that the decision of the Register in appeal might be declared final.

191. In suits for personal property, decided by the Register in the first instance, the decision of the Judge or assistant Judge in appeal might also be declared final; except in cases in which the provincial court might see reasons for granting a special appeal.

192. The jurisdiction of the Judge and assistant Judge might remain as it is at present constituted.

193. There does not appear the same reason for an appeal from the decisions of the provincial courts, in the first instance, as from those of the inferior judicatories, because every decision of a provincial court must be passed by two or more Judges; and the Court therefore think it might be safe to declare the decisions of those courts final, in suits for sums below the amount at present appealable to the Governor General in Council, vesting the court of Sudder Adawlut with authority to admit special appeals, in cases in which it may appear to them, for particular reasons, that there are good grounds for an appeal.

194. These limitations of the right of appeal would quicken the final determination of suits; but believing, as the Court do, that the administration of justice by the courts of judicature now established is, upon the whole, satisfactory to the inhabitants of the territories under the Government of Fort St. George, they do not recommend the immediate adoption of these suggestions, and have not therefore thought it necessary to draft a Regulation for carrying them into effect.

195. It would appear to the Court to be advisable, under ordinary circumstances, that the experience of the Supreme Government, which precedes that of Madras by ten years, should dictate meliorations and amendments of the judicial code, rather than that they should be attempted on the more confined practice of Madras in the first instance; and, in this case, the expressed intention of the honourable Court of Directors to convey their sentiments fully on the judicial administration of India, civil and criminal, is sufficient to restrain the Court from prematurely submitting, in the shape of a Regulation, the arrangements which they have deemed it their duty to suggest for the consideration of the Honourable the Governor in Council, as practicable if they should be deemed expedient.

196. Adverting to the instructions conveyed in the fortieth paragraph of the Letter from the Honourable Court of Directors, dated the 29th October 1813, regarding the subsistance of prisoners, but more especially to their opinion, that some distinction, however small, should be made in favour of debtors, whom the law does not intend to punish but merely to secure by confinement from evading the demands of their creditors, the Court feel called upon to explain, that this expense is not defrayed by the Government, but by the creditor, who may chuse to incarcerate the person of his debtor, and that within certain limitations. " The Judge, at the time of the commitment of " the defendant, is to make an order on the plaintiff for the payment of what- " ever monthly allowance he may think reasonable for the subsistance of the " defendant, upon a consideration of his rank and situation in life and the cir- " cumstances of the plaintiff." Section 10, Regulation III, A. D. 1802.

197. This provision may have escaped the notice of the Honourable Court, and it is therefore quoted. Indeed, it may be said that this section contains the greatest innovation on the civil usage of the country; for previously to the establishment of the judicial code, confinement for debt by public authority was unknown. Indeed, it could not be known, for there were no public prisons.

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sons. The method resorted to by creditors to compel an adjustment of their claims was to attach a Peon to the debtor, from whom he received a daily allowance for his subsistance, whilst his daily occupation was to harass the debtor with ceaseless importunity, and to obstruct him in the pursuit of every avocation, whether of indispensable necessity, of business, or of pleasure.

198. The inconvenience and vexation of this expedient are too manifest to require description. It must be regarded as the offspring of a Government, which wanted either the means or the inclination to preserve order and regularity in the dealings between individuals. It was a contempt of all constituted authority, and could not be tolerated under a well regulated Government. Whether the substitution of imprisonment, under legal proceedings, for this domiciliary imprisonment at the caprice of the individual creditor, was an improvement of the condition of society, is a question which it is unnecessary to argue, as a relaxation of the principle has been introduced by the Supreme Government, and adopted by that of Fort St. George, whereby a debtor is permitted, by a full and unreserved disclosure of his property, upon oath, to open his prison doors, and to escape from the severity of an inexorable creditor, although any property which he may acquire still remains answerable for the discharge of his debt.

199. The former Regulation, while it removed one abuse and provided for the security of a debtor's person at the instance of the creditor, compelled the latter to afford him that reasonable subsistance, which he was prevented by confinement from procuring by his own industry; and the latter provides that the industry of an unfortunate debtor shall no longer be suppressed, by a restraint which cannot contribute to any useful purpose.

200. The Court will conclude these proceedings, with assuring the Honourable the Governor in Council, that instructions shall be immediately issued for carrying into effect the orders of the Honourable Court of Directors, conveyed in the extracts from their letter of the 29th October 1813.

Ordered, That extract of these proceedings, together with the various documents to which they refer, be sent to the Secretary to Government in the judicial department, with a request that he will submit the same for the consideration of the Honourable the Governor in Council.

(True extract.)

WILLIAM OLIVER, Register.

General Abstract Statement of Causes decided in the Zillah Courts, during the year 1813, *formed from the Monthly Abstract Registers furnished by the Judges, pursuant to Section* 10, *Regulation XIII, A. D.* 1802; *shewing also the Amount value of Property held under Decrees passed in those Courts, between the* 1st *January and* 31st *December* 1813.

ZILLAHS.	By the Judge, in appeal from the decision of				By the Assistant Judge, in appeal from the decision of				Tried, in the first instance, by						Total before the Judge, Assistant Judge, and Register.	Tried, in the first instance, by the Native Commissioners.		TOTAL.	Amount of Property decreed.
	The Register.		The Native Commissioners.		The Register.		The Native Commissioners.		The Judge.		The Assistant Judge.		The Register.						
	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.		Decreed or Dismissed.	Adjusted by Razeenamas.		Pagodas. F. C.
Bellary	6	1	22	2	..	..	..	..	13	4	..	..	139	6	193	2,942	468	3,593	7,216 32 71
Canara	..	..	32	..	..	..	..	..	99	11	..	..	35	3	180	920	371	1,471	16,414 43 1
Chingleput	16	..	35	1	..	..	..	..	116	21	..	..	91	35	318	337	247	902	21,084 19 44
Chittoor	15	3	73	1	..	..	..	..	85	16	..	..	77	28	298	845	903	2,046	28,496 13 56
Cochin	..	..	..	..	..	..	..	..	271	39	..	..	..	..	310	..	..	310	17,397 0 49
Combaconum	2	1	7	..	1	..	2	..	16	1	1	2	93	107	233	761	944	1,938	19,337 24 24
Cuddapah	2	2	18	8	..	..	..	..	44	12	..	..	96	77	259	2,980	548	3,787	35,097 29 15
Darapooram	..	..	4	..	..	..	..	..	9	..	..	..	39	17	69	355	1,752	2,176	5,854 26 48
Ganjam	9	..	61	4	..	..	..	..	40	3	..	..	48	5	170	182	95	447	6,851 8 67
Madura	..	1	..	1	..	..	..	..	12	28	17	25	20	34	138	382	532	1,052	14,549 30 49
Malabar (North)	2	..	31	3	..	..	..	..	260	37	..	..	130	29	492	871	230	1,593	27,478 9 79
Malabar (South)	11	1	..	..	..	..	..	..	64	37	..	..	117	11	241	261	479	981	29,966 18 43
Masulipatam	19	1	32	2	..	..	..	..	36	19	..	..	115	84	308	954	683	1,955	35,49[illegible] 27 44
Nellore	..	..	..	..	..	..	..	..	49	27	..	..	67	89	232	..	..	232	6,876 39 22
Rajahmundry	2	2	4	2	..	..	..	..	24	30	..	..	39	25	128	287	371	786	14,741 29 37
Salem	..	..	14	21	2	2	12	2	92	186	11	7	103	59	511	1,059	1,178	2,748	32,545 4 43
Seringapatam	..	..	1	..	..	..	..	..	4	10	..	..	12	20	47	..	..	47	265 7 29
Tinnevelly	4	..	7	..	..	..	..	..	53	9	..	..	60	10	143	92	46	281	8,182 25 15
Trichinopoly	3	..	7	3	..	..	..	..	25	5	..	..	63	8	114	484	108	706	11,390 44 56
Verdachellum	1	..	44	13	..	..	..	..	9	1	..	..	31	21	120	705	697	1.522	7,275 33 31
Vizagapatam	3	..	53	7	..	..	..	..	27	21	..	..	15	33	159	475	344	978	21,711 22 27
Total	95	12	448	68	3	2	14	2	1,348	517	29	34	1,390	701	4,663	14,902	9,986	29,551	3,68,226 41 50

Or £ Sterl. 1,47,291 6 7

Sudder Adawlut,
Register's Office.

Errors Excepted, (Signed) WILLIAM OLIVER,
Register.

General Abstract Statement of Appeals and Causes determined and adjusted by the Provincial Courts of Appeal, during the Year 1813, *formed from the Monthly Abstract Registers furnished by them, conformably to Section* 13, *Regulation XIII,* 1802; *shewing also the Amount value of Property held under Decrees passed by those Courts in original Causes, between the* 1st *of January and* 31st *December* 1813.

Courts.	Appeals.		Causes tried in the first instance.		Total.	Amount decreed in original Causes.
	Decreed or Dismissed.	Adjusted by Razeenamas.	Decreed or Dismissed.	Adjusted by Razeenamas.		Star Pagodas. F. C.
Centre Division	51	2	10	3	66	35,704 27 51
Northern Division	62	5	10	4	81	92,502 42 31
Southern Division	29	5	33	...	67	1,43,539 2 0
Western Division	15	...	19	...	34	36,794 25 72
Total	157	12	72	7	248	3,08,541 7 74

Or £ Sterl. 1,23,416 11 6

Sudder Adawlut, Register's Office. Errors Excepted, (Signed) W. OLIVER, Register.

General Report on the Reports furnished by the Zillah Judges, conformably to Section 11, Regulation XIII, 1802, of Causes depending on their Courts on the 1st January 1814; shewing also the estimated Amount of Property in Litigation in those Courts.

ZILLAHS.	By the Judge, in appeal from the decision of		By the Assistant Judge, in appeal from the decision of		Under Trial, in the first instance, by			Total before the Judge, Assistant Judge, and Register.	Under Trial, in the first instance, before the Native Commissioners.	GRAND TOTAL.	TOTAL.	Estimated Amount of Property in Litigation in the Zillah Courts, on the 1st January 1814.
	The Register.	The Native Commissioners.	The Register.	The Native Commissioners.	The Judge.	The Assistant Judge.	The Register.					Pagodas. F. C.
Bellary	14	78	..	..	46	..	71	209	238	447	..	21,343 18 79
Preceding half-yearly Report	18	72			36		64	167	195	..	960	.. .. ..
Canara	..	133	..	..	178	..	139	450	4,886	5,336	..	90,009 15 73
Preceding half-yearly Report	..	175		..	156	.	179	428	4,886	..	5,314	.. .. ..
Chingulput	3	..	..	..	29	..	20	52	240	292	..	7,609 24 28
Preceding half-yearly Report	6	2	..	.	24	..	31	63	231	..	294	.. .. ..
Chittoor	26	123	..	..	206	..	363	718	698	1,416	..	66,864 32 9
Preceding half-yearly Report	32	127			196	..	376	711	681	..	1,392	.. .. ..
Cochin	..	..	..	..	50	..	..	50	..	50	..	4,886 23 63
Preceding half-yearly Report	.	.	.		20	..	..	22	.	..	22	.. .. ..
Combaconum	17	99	7	12	81	8	270	494	512	1,006	..	98,876 4 17
Preceding half-yearly Report	10	60	3	14	74	11	246	423	675	..	1,098	.. .. ..
Cuddapah	30	109	..	..	109	..	61	309	419	728	..	34,327 36 70
Preceding half-yearly Report	[illegible]	73		..	56	..	[illegible]	283	632	..	915	.. .. ..
Darapooram	4	24	..	..	15	..	106	149	135	284	..	11,235 14 58
Preceding half-yearly Report	4	[illegible]	..		15	..	88	128	196	..	324	.. .. ..
Ganjam	10	23	..	..	11	..	142	186	113	299	..	14,507 16 54
Preceding half-yearly Report	15	28	..	.	17	..	185	228	68	..	296	.. .. ..
Madura	8	30	3	5	208	150	73	487	155	642	..	40,587 29 11
Preceding half-yearly Report	10	[illegible]	1	.	[illegible]	175	106	489	201	..	690	.. .. ..
Malabar (North)	4	119	..	..	120	..	156	399	566	965	..	44,748 34 34
Preceding half-yearly Report	6	146	.		[illegible]	..	157	424	479	..	903	.. .. ..

Malabar (South)................	19	18	..	..	110	..	147	294	844	1,138	..	71,281 39 35
Preceding half-yearly Report	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]		669	
Masulipatam	23	70	..	..	35	..	48	176	101	277	..	26,504 21 30
Preceding half-yearly Report ..	[illegible]	71			[illegible]		[illegible]	[illegible]	[illegible]		631	.. .. ..
Nellore	..	..	..	..	82	.	203	285	..	285	..	15,085 31 49
Preceding half-yearly Report								[illegible]	..	..	165	.. .. ..
Rajahmundry	22	71	..	..	136	..	212	441	524	965	..	69,724 18 15
Preceding half-yearly Report ..	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]	..	382	.. ..
Salem	4	396	1	6	188	20	106	721	689	1,410	..	84,926 5 22
Preceding half-yearly Report ..	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]	.	1,662	.. .. ..
Seringapatam	..	..	..	..	10	..	37	47	65	112	..	8,838 2 1
Preceding half-yearly Report ..	..				[illegible]		[illegible]	[illegible]	[illegible]	..	102	.. .. ..
Tinnevelly	6	7	..	..	64	..	26	103	43	116	..	6,519 27 34
Preceding half-yearly Report ..	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]	..	147	.. .. ..
Trichinopoly	26	92	..	..	61	..	142	321	131	452	..	39,273 23 65
Preceding half-yearly Report ..	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]	..	532	.. .. ..
Verdachellum	16	93	..	..	44	..	72	225	870	1,095	..	27,137 32 77
Preceding half-yearly Report ..	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]	..	1,204	.. .. ..
Vizagapatam	1	12	..	..	31	..	87	131	483	614	..	22,948 37 63
Preceding half-yearly Report ..	[illegible]	[illegible]			[illegible]		[illegible]	[illegible]	[illegible]	..	615	.. .. ..
Total........	233	1,497	11	23	1,824	178	2,481	6,247	11,712	17,959	..	8,07,266 41 7
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	.	[illegible]	..

Errors Excepted, (Signed) WILLIAM OLIVER,
Register.

Sudder Adawlut,
Register's Office.

General Report on the Reports furnished by the Provincial Courts of Appeal, conformably to Section 14, Regulation XIII, 1802, of Causes and Appeals remaining undecided on their Courts on the 1st January 1814, showing also the estimated Amount of Property in Litigation in those Courts.

COURTS.	Appeals.	Causes under Trial in the first instance.	TOTAL.	TOTAL	Estimated Amount of Property in Litigation in original Causes, on the 1st January 1814. Star Pagodas	F.	C.
Centre Division	105	17	122	...	1,49,477	19	22
Preceding half-yearly Report	100	13	...	113	...	...	...
Northern Division	219	49	268	...	5,54,301	13	77
Preceding half-yearly Report	222	47	...	269	...	...	...
Southern Division	99	21	120	...	1,08,505	38	3
Preceding half-yearly Report	109	31	...	140	...	...	...
Western Division	59	17	76	...	1,23,052	30	9
Preceding half-yearly Report	14	18	...	32	...	...	...
Total, 1st January 1814	482	104	586	...	9,36,137	11	31
	145	109	...	[illegible]	...	...	...

An Account showing the Amount of Fees collected and carried to the Account of Government, on the Institution and Trial of Suits and Appeals, from 1st *January to* 31st *December* 1813.

Report of Sudder Adawlut, 26 July 1814.

	Fees Collected in 1813.		
	S. Pagodas	F.	C.
Centre Division	1,869	15	74
Northern Division	3,050	7	68
Southern Division	1,772	37	61
Western Division	1,104	14	3
Bellary	973	21	28
Canara	1,184	31	26
Chingleput	937	33	23
Chittoor	1,247	27	34
Cochin	903	23	28
Combaconum	997	8	21
Cuddapah	574	8	78
Darrapooram	389	20	2
Ganjam	617	41	14
Madura	906	5	9
Malabar North	2,111	11	41
Malabar South	769	12	53
Masulipatam	2,181	34	72
Nellore	1,015	20	39
Rajahmundry	644	33	20
Salem	906	14	70
Seringapatam	216	42	43
Tinnevelly	522	18	45
Trichinopoly	1,056	38	4
Verdachellum	662	18	23
Vizagapatam	1,239	12	37
Total, Star Pagodas	27,855	13	46

Errors Excepted. (Signed) WILLIAM OLIVER, Register.

Read the following letter from the Register to the Court of Sudder Adawlut.

Proceedings of Sudder Adawlut, 30 Aug. 1814.

To the Secretary to Government in the Judicial Department.

SIR :

I am directed by the Sudder Adawlut to transmit to you the accompanying extract from the Court's proceedings of this date, with the letter therein referred to, and to request you will submit the same for the information of the Honourable the Governor in Council.

I have &c.

(Signed) WM. OLIVER, Register.

Sudder Adawlut, Register's Office,
30th August 1814.

Extract from the Proceedings of the Sudder Adawlut, under date the 30*th August* 1814.

Read letter dated the 29th ultimo, from the Judge in the zillah of Cuddapah, submitting his observations on the extract from the letter of the late principal Collector in the Ceded Districts, dated 15th August 1807.

(Here enter No. 558.)

 The

Proceedings of Sudder Adawlut, 30 Aug. 1814.

The foregoing voluminous and elaborate report extends to considerations which the Court did not anticipate in their orders of the 22d June 1813. It contains a general defence of the Judicial Code, and its principal object is to display the advantages of fixed laws, administered by courts of judicature held responsible for the impartiality of their acts, over the capricious, though well intentioned exertions of arbitrary power, subjects on which the Court may perhaps be thought to have entered more than was necessary, in their proceedings of the 26th ultimo. The Court have, however, remarked with satisfaction, that the description given by the Judge of Cuddapah, of the alterations introduced into the conduct of society since the establishment of the judicial system, confirms, in every respect, the report received from the Judge of Bellary from which report extracts of considerable length were inserted in the Court's proceedings of the date abovementioned.

The Court do not consider it necessary to make any further remark on the report from the Judge of Cuddapah, which was received too late to be noticed in their proceedings of the 26th ultimo; but as connected with those proceedings, the Court directed that the report be submitted for the information of the Honourable the Governor in Council.

Ordered that an extract of these proceedings be sent to the Secretary to Government in the Judicial department.

(A true extract.)

(Signed) WILLIAM OLIVER, Register.

Note.—Neither the report from the Judge of Cuddapah, nor that from the Judge of Bellary, have been received at the India House. Many other documents referred to in the India papers are wanting.

SECRETARY *to* MADRAS GOVERNMENT *to* SECRETARY *at the* INDIA HOUSE,

Dated the 4th January 1815.

To James Cobb, Esq. Secretary at the India House.

Sir:

Letter from Secretary to Madras Government, 4 January 1815.

Under the idea that the Honourable the Court of Directors will be desirous of receiving the earliest information of all steps taken in pursuance of the instructions conveyed in their dispatches, dated the 29th of April and 4th of May last, the Right Honourable the Governor in Council has directed me to transmit to you the accompanying copies of two minutes on the subject recorded by Mr. Elliot, of several letters addressed to Colonel Munro, of those received from him, of a letter from the Civil Auditor, and of the reply to it, regarding the construction to be put upon the Honourable Court's orders fixing Colonel Munro's allowances, and of a minute which was yesterday recorded by Mr. Elliot, proposing that Mr. George Stratton be appointed joint Commissioner with Colonel Munro.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 4th January 1815.

SECRETARY

SECRETARY *to* MADRAS GOVERNMENT *to* COLONEL MUNRO,
Dated 23d September 1814.

SIR:

Par. 1. The Right Honourable the Governor in Council having been pleased to appoint you First Commissioner of internal Administration, you will be guided by the following instructions.

Letter to Colonel Munro, 23 Sept. 1814.

2. You will report to Government on the means which you deem best calculated for carrying into effect the modifications in the present system of internal administration, specified in the judicial dispatch of the 29th of April 1814, from the Court of Directors, a copy of which is forwarded to you.

3. You will report occasionally how far the modifications, when introduced, may appear to answer the end of their adoption, and generally on every point which you think may contribute, in any way, to the improvement of the present system.

4. You will correspond with the Court of Sudder Adawlut and the Board of Revenue, or directly with the subordinate courts of judicature, Magistrates, and Collectors, and call for information on every matter which you may deem to be connected with the duties of your office.

5. You will, as often as you may judge it expedient, visit the districts, for the purpose of communicating personally with the local authorities on the system of internal administration, its operation, whether in opposing or promoting the comforts of the people and the prosperity of the country, and the means by which it may be improved.

6. You will submit to Government an estimate of the number and pay of the native servants, and of every expense that will be necessary for your department.

7. You will trasmit your accounts regularly to the Accountant General and Civil Auditor.

8. The court of Sudder Adawlut and the Board of Revenue will be furnished with copies of these instructions.

I have the honour to be, Sir,
Your most obedient servant,
(Signed.) D. HILL,
Secretary to Government.

Fort St. George, 23d September 1814.

PRESIDENT'S MINUTE, *dated 3d January* 1815.

Colonel Munro having requested, in his letter of the 13 ultimo, that another Member may be added to the commission with which he is charged, I deemed it proper, in consideration of the great confidence deservedly reposed in that Officer by the Honourable the Court of Directors, to consult with him regarding the Gentleman whom, with our sanction, he would prefer as a coadjutor in his important labours. Having accordingly ascertained that he is desirous Mr. George Stratton should be appointed second Commissioner, and that this gentleman is in every respect qualified for the office, I have the honour to recommend that he be nominated the second Commissioner, with a salary of twelve thousand pagodas per annum, to cover all charges for travelling and other necessary expenses.

President's Minute, 3 Jan. 1815.

Having also been informed by Colonel Munro, that from the nature of the inquiries to be made, and of the reports to be prepared, the objects of the commission would be greatly facilitated if its second Member were at the same time Judge of the Sudder Adawlut, and concurring in what I understand to be the opinion of the Gentlemen of Council, that a third Judge is indispensably re-

quired

President's Minute, 3 Jan. 1815.

quired for the due discharge of the functions of that Court, I am further induced to recommend, that Mr. Stratton be appointed to officiate in that capacity, on his salary of Commissioner, until the pleasure of the Honourable the Court of Directors can be ascertained.

I am disposed to think, from the observations of Colonel Munro, that the services of Mr. Stratton, as a member of the Commission, will be generally employed with most advantage at the Presidency. In this respect, however, much may be left to his own discretion; and I consequently propose, that he be desired to divide his attention between his two offices, in such manner as, in communication with the other Judges of the Sudder Adawlut, and with the first Commissioner, he shall have reason to believe to be most expedient for the public service.

As it appears that the Honourable the Court of Directors object to the nomination of a third Judge of the Sudder Adawlut, principally on the grounds of the increased expenditure such an appointment would occasion, it is satisfactory to observe, that by the proposed arrangement this objection would be entirely obviated, as Mr. Stratton is to receive no salary as third Judge in the the Court of Sudder Adawlut, but will act in that capacity upon the salary of second Commissioner. The only remaining objection which could be opposed to the nomination of Mr. Stratton, on the ground of his seniority to Mr. Greenway, the second Judge on the fixed establishment of the Sudder Court, will be effectually removed by his own consent, officially communicated, to act as third Judge of the Court under a junior servant, in conformity to the provision made for such a case by the clause of the new charter.

(Signed) H. ELLIOT.

EXTRACT JUDICIAL LETTER *from* FORT ST. GEORGE,

Dated the 1st March 1815.

Judicial Letter from Madras, 1 March 1815.

Par. 205. WITH our Secretary's letter, dated the 4 January last, we caused to be transmitted to your Honourable Court copies of all the correspondence which had then passed with Colonel Munro, regarding the instructions communicated in the dispatch from your Honourable Court, bearing date the 29th of April 1814, and also a copy of our Presid Ment'sinute, dated the 3d January last, explaining the considerations under which he was induced to propose the appointment of Mr. George Stratton as second Member of the Commission for revising the present police arrangements and the established system of judicature. We have now the honour to solicit the attention of your Honourable Court to the accompanying extract of our proceedings, dated the 1st instant, on a letter from Colonel Munro, bearing date the 24th of December, and we venture to express our hope that the sentiments therein stated may meet with the approbation of your Honourable Court.

COLONEL MUNRO *to* SECRETARY *to* MADRAS GOVERNMENT,

Dated 24th December, 1814.

To the Chief Secretary to Government, Fort St. George.

SIR:

Letter from Colonel Munro, 24 Dec. 1814.

1. In my letter of the 13th instant I stated that I had carefully examined all the reports from the Judges, Collectors, and Commercial Residents, to the Committees of Police, from 1805 to the present year. From these materials very able reports have been framed, both by the late Committee of Police and by that which preceded it, and both have suggested several important improvements in the existing system of police. But none of these have yet been carried into effect; nor have any of the amendments ordered to be made by the Honourable Court of Directors, in their Judicial dispatch of the

Letter from Colonel Munro, 24 Dec. 1814.

the 29th April last, been rendered unnecessary by any late regulations of Government.

2. As the whole subject of that dispatch, therefore, still remains for consideration, it may be proper to submit to the Governor in Council an abstract of its contents, exhibiting under two heads, first, all those matters which Government, after referring to the Sudder Adawlut and subordinate Courts for their opinion, are to adopt or reject as they think fit; and secondly, all those on which the order for carrying them into effect is imperative, and no discretion is left with Government; and then to suggest the means by which the proposed alterations may be most readily accomplished.

3. The points which are to be referred to the Sudder and subordinate Courts for their opinion, and on which Government may exercise their discretion, are as follow.

1st. A revision of the forms of process in the Sudder and subordinate Courts, "with the view of rendering the proceedings in civil cases as summary as may be compatible with the ends of substantial justice." * Under this general injunction attention is called to the following particulars.

2d. Whether or not the reply and rejoinder may be dispensed with.†

3d. Whether "the practice prescribed by Regulation III. 1803, of taking down in writing all depositions, although delivered orally in open Court," be necessary or not.‡

4th. A mature consideration of the subject of employing licensed Vakeels, with a view of devising, if it be possible, a remedy for an evil so generally acknowledged.§

5th. Whether the restrictions which formerly existed under Regulation II. of 1802, on appeals from the Registers and Judges of the zillah courts, should not be revived.||

6th. Whether the fees and stamp duties, imposed by Regulations IV. V. and XVII. of 1808, have not served "to discourage, and often to preclude, the fair claimant from applying to our judicatories."¶

7th. What is the amount of the sum within which the execution of the judgment pronounced by the village Potail or punchayet should not be stayed by appeal to the zillah court.**

8th. Cases in which the principal Zemindars may "be entrusted with the powers of an agent of Police."††

9th. Whether or not it would conduce "to the more prompt and convenient administration of criminal justice, if the zillah Judges were to be so far invested with a jurisdiction in criminal matters as to enable them to hear and determine all cases of public offence not of capital nature and now cognizable by the Courts of circuit only."‡‡

10th. Whether the same important end would not "be materially furthered, were the Collectors, acting as the Magistrates of zillahs, to be empowered to punish offenders by corporal punishment, to the extent of thirty rattans, by fine not exceeding one hundred Arcot rupees, and by imprisonment not of longer duration than three months.

11th. Whether or not "the Collector should be associated with the zillah Judge in the trial of offences at quarterly sessions.§§

12th. Whether "the sentence of the provincial courts of circuit may not be carried into immediate execution, without a reference to the Nizamut Adawlut, when the guilt is clearly established, and there seems to the circuit Judge no ground for recommending the prisoner to mercy; and with "the

* Judicial dispatch from the Court of Directors, dated 29th April, 1814, paragraph 23.

† Ditto, paragraph 24. ‡ Ditto, par. 25. § Ditto, par. 26. || Ditto, par. 27.

¶ Ditto, par. 30. ** Ditto, par. 66. †† Ditto, par. 87. ‡‡ Ditto, par 102.

§§ Ditto, par. 102.

Letter from Colonel Munro, 24 Dec. 1814.

" the same view of expediting the administration of the criminal law, whether " the present forms of proceeding in the courts of circuit will not admit of " simplification, consistently with the substantial end of justice." *

4. The following are the points of modification in the judicial system, on which the order for carrying them into execution is positive, and on which no other discretionary authority is left with Government than merely *as to the manner* in which this is to be done.

1st. No further appeal to be permitted to be " from a decision of the zillah " court on an appeal from the register or from any native tribunal." †

2d. Village punchayets to be authorized to hear and determine suits, ‡

3d. The Potail or head of the village, " by virtue of his office, to execute " the functions of Commissioner within the village in the several modes pre- " scribed by the Regulations." §

4th. Intermediate native judicatures between the village and zillah court to be established, " and to be invested with a jurisdiction over a certain number " of villages, so as that there may be three, four, or five in a zillah ; and the " Judges to receive a fixed salary, in addition to a fee on the institution of " suits brought before them." ||

The order for the establishment of these native judicatures, though not absolutely unconditional, is so far positive, that nothing but some very serious obstacle is to prevent its execution.

5th. The punchayet on a larger scale than that of the village, so as to have a greater selection of persons, " to be employed under the native district " Judge." ¶

6th. Suits brought under the cognizance of the Potails and Curnums to be altogether relieved " from fees and stamp duties." **

7th. The Sudder to receive from the subordinate courts, and furnish Government with yearly or half-yearly reports of the nature and number of suits, " in which the following particulars are to be stated." ††

1st. The number of suits instituted in each court now existing or hereafter created, decided or dismissed, appealed or not, to what court, confirmed or reversed.

2d. Original and appellate courts to show original and appeal suits, and proportion of appeals reversed or confirmed.

3d. Average value of matter litigated, nature of the dispute, situation of the parties particularly in cases of land; whether paying rent to Government or Zemindar, or other holders of land.

8th. The village police, agreeably to the usage of the country, to be re-established in the Zemindarry countries and placed under the orders and controul of the Magistrate ; and " in such other parts of the Madras possessions " in which it may be found neglected or in a mutilated condition, to be also " restored to its former efficiency." ‡‡

9th. On the completion of the village police, the Darogah establishment and the police corps to be reduced as far as practicable. §§

10th. The superintendance of the village and zillah police to be transferred to the Collector. ||||

11th. The police of districts to be under the Tehsildar instead of the Darogah. ¶¶

12th. " The

* Judicial dispatch from the Court of Directors, dated 29th April 1814, paragraph 103.

† Ditto, par. 27. ‡ Ditto, par. 58, 61, 62, 63.

§ Ditto, par. 60. || Ditto, par. 67, 69. ¶ Ditto, par. 68, 70, 71.

** Ditto, par. 71. †† Ditto, par. 72. ‡‡ Ditto, par. 84.

§§ Ditto, par. 85. |||| Ditto, par. 89, 90, 93, 94. ¶¶ Ditto, par. 95.

Letter from Colonel Munro, 24 Dec. 1814.

12th. "The agents of the Collector in the administration of the police will "be the district Amildars or Tehsildars, and the village Potails, Curnums, and "Talliars, aided as occasion may require by the Amildar's Peons, and by the "Cutwalls and their Peons in large towns." *

13th. The office of zillah Magistrate to be transferred to the Collector. †

14th. The enforcement of the pottah Regulation to be secured by an adequate process, under the superintendance of the Collector in his magisterial capacity. ‡

15th. "No demand of a Zemindar, &c. for arrears of rent should be receiv- "able in any court, but upon a pottah." §

16th. No Zemindar to be at liberty to proceed to sell under distraint, without an order from the Collector. ||

17th. Cases of disputed boundaries to be decided by the Collector, on the verdict of a punchayet. ¶

5. The above extract exhibits all the alterations in the Judicial system which the Court of Directors have ordered either to be taken into consideration, or to be carried into execution by Government. Of this last class, by far the most important one is the transfer of the police and magisterial duties from the zillah Judge to the Collector, and as all the rest are subordinate to and dependent upon this, it must necessarily be carried into effect before any one of them can be brought forward: I would therefore recommend, that the Court of Sudder Adawlut should be directed to prepare, without delay, a Regulation for transferring the office of Magistrate and Superintendant of the Police from the zillah Judge to the Collector. It would perhaps be advisable that this Regulation should be as short as possible, should be free from all details, and should simply authorize the transfer, and leave the Collector, as Magistrate, to be guided by the existing Regulations. A more comprehensive Regulation, containing all the rules which it may be deemed expedient to insert, may be framed hereafter; but no time should be lost in issuing the short one proposed.

6. After vesting the Collector with the authority of Magistrate, the Court of Sudder Adawlut might be directed to prepare Regulations to give effect to the other arrangements ordered by the Court of Directors, proceeding in the order of their relative importance. The first Regulation on this principle, therefore, should be one for restoring the management of the village police to the heads of villages, and of the district police to the Tehsildars or Amildars under the Collector: The second should be a Regulation for constituting heads of villages, by virtue of their office, native Commissioners, and for the direction of village punchayets: The third should be a Regulation for the appointment and guidance of native district Judges or Commissioners, and district punchayets

The fourth should be a Regulation authorizing the Collector, as Magistrate, to enforce the pottah Regulations.

The fifth should be a Regulation to prevent Zemindars and proprietors of land from distraining without the authority of the Collector.

The sixth should be a Regulation placing the decision of the cases of disputed boundaries, alluded to in Regulation XXXII. of 1802, in the hands of the Collector.

7. These six Regulations, together with the one for transferring the authority of Magistrate to the Collector, will comprize all the points on which the orders from hence are positive, and which therefore require immediate attention. After they are finished, the other articles which embrace a revision of the process of the civil and criminal courts, the granting of criminal jurisdiction

* Judicial dispatch from the Court of Directors, dated 29th April 1814, paragraph 97.

† Ditto, par. 95. 102. ‡ Ditto, par. 105, 106, 107. § Ditto, par. 107.

|| Ditto, par. 106, 107. ¶ Ditto, par. 109.

Letter from Colonel Munro, 24 Dec. 1814.

tion to the zillah Judge, and the associating of the Collector with him at the Quarterly Sessions, on which subjects the instructions of the Court of Directors are not absolute but conditional, may be taken into consideration.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) THO[s]. MUNRO,
First Commissioner.

Madras, 24 December, 1814.

MINUTES *of the* COUNCIL *at* FORT ST. GEORGE,

Dated the 1st March, 1815.

Minutes of Council, 1 March 1815.

On the appointment of Colonel Munro as First Commissioner, he was furnished with a copy of the dispatch from the Honourable the Court of Directors, dated the 29th of April 1814, and instructed to report to Government on the best means of carrying into effect the modifications of the present system of internal administration specified in that dispatch. The letter now recorded contains his first report. In that letter he states, that the whole subject to which the Honourable Court's dispatch relates still remains for consideration ; and after submitting an abstract of the contents of the dispatch prepared under two heads, he recommends that the Sudder Adawlut should be instructed to frame seven Regulations, concerning certain points whereon the orders of the Court of Directors are positive, after which the other points embraced by the Honourable Court's dispatch, may, he observes, be taken into consideration.

The report submitted by Colonel Munro has rendered it necessary for the Governor in Council to take a particular survey of the whole contents of the Honourable Court's dispatch, and these are found divided into three separate branches, viz. the established system of judicature, the present police arrangements, and the administration of criminal justice.

The objections which the Honourable Court have urged against the established system of judicature are the following:

1st. That it is attended with an expence amounting to £3,48,262 per annum, which they are satisfied cannot be reduced without a revision of the whole system. *

2d. That the object of introducing it into Bengal was to expedite the administration of justice, in which object it has failed ; and that the expedients for reducing the arrears of suits, which are relied upon here, have in Bengal been tried in vain. †

3d. That it discourages fair suitors from seeking redress, and compels both litigants and witnesses (particularly the heads of villages) to undertake vexatious journeys, and that affrays take place from the disputes of the people being left unsettled. ‡

4th. That natives are much better qualified than Europeans to sift and appreciate native testimony, and that Europeans must obviously labour under great disadvantages from their imperfect knowledge of the native languages, and must therefore be liable to error, be dependent on their native servants, and be dilatory in the dispatch of business. §

5th. That it is encumbered with useless and injurious forms, foreign to the habits of the people. ||

6th. That

* Paragraph 5. † Par. 6, 7, 8, 9. ‡ Par. 9, 10, 11, 18.

§ Par. 12, 13, 14, 15, 16. || Par. 18, 19, 20, 24, 25.

6th. That these forms have caused the necessity of employing Vakeels, whose usefulness has been greatly questioned.*

7th. That it admits too freely the right of appeal. †

8th. That the institution fees and stamp-duties, which are required to reduce the arrears of suits, must discourage the fair suitor. ‡

After illustrating and enforcing these objections to the established system of judicature, the Honourable Court express their opinion, that the administration of justice may be improved by the employment of intelligent natives in that duty, and that a foundation may at the same time be laid for a reduction of expense. § They take a view of the manner in which, under the native Governments, disputes used to be settled by the Potails and punchayets, with an appeal to the Aumildar. ‖ They observe, that the Potail and the Curnum, who assisted him, enjoyed an established revenue, were regarded by the people as their natural superiors, are the native gentry, and possess a knowledge of the people and of their concerns. ¶ The Honourable Court take notice of their having been employed in a judicial capacity before the present system was introduced, of their usefulness in that capacity as well as of their influence and loyalty being recognized by respectable authorities, and, in fine, pronounces them to be the fittest instruments for administering justice and superintending the police. ** They advert to the employment of native Commissioners as having been attended with advantage, but conceive that Potails and Curnums must be greatly preferable to native officers *appointed* by Government, and very inadequately rewarded, as the former are already possessed of rank and influence, and receive a remuneration for the office which is to be restored to them. †† They entertain no doubt that these municipal officers will gladly resume their functions and will be most acceptable to the people. ‡‡ They direct that the institution of punchayets shall also be restored; they take notice of the mode in which the proceedings of that tribunal were formerly conducted, and they strongly insist on the benefits which will result from its being again brought into operation. The Honourable Court finally advert to the proneness of the natives to corruption, as the chief argument against native agency on an extensive scale; but observe, that that disposition may be checked, by means of a constant and pervading superintendence. §§

On the foregoing observations are founded, and in the course of some of them are contained the orders which the Honourable Court have given, regarding the established system of judicature. The modifications of the system which they propose to introduce are the following:

1st. That the Potail, by virtue of his office, shall act as Commissioner and referee in his own village. ‖‖

2d. That either party may require the Potail to summon a punchayet. ¶¶

3d. That some cases, particularly boundary disputes, shall be referable to the Potail and punchayet for final decision.***

4th. That the amount to be decided by them shall be small at first. †††

5th. That they shall act as arbitrators without limitation or appeal, otherwise than on a charge of partiality or corruption, but shall not supersede the subsisting provisions with respect to arbitration. ‡‡‡

6th. That their decisions shall not be final, except in cases specially referred to them under the third article, and in cases of arbitration §§§

7th. That execution shall not be stayed pending an appeal, unless the amount at issue exceed the limit to be fixed by Government. ‖‖‖

8th. That an original and appellate judicatory shall be established intermediately between the Potail and the Judge, and that a native of the highest rank and respectability shall preside over it, with a salary and an institution fee,

* Paragraph 21, 22, 23. † Par. 27. ‡ Par 28, 29, 30, 31, 32. § Par 33.
‖ Par 34 ¶ Par. 35, 36. ** Par. 37 to 47. †† Par. 48. ‡‡ Par. 49.
§§ Par. 51 to 55, and 71. ‖‖ Par. 60. ¶¶ Par 61. *** Par 61.
††† Par 62. ‡‡‡ Par 63. §§§ Par. 65. ‖‖‖ Par 66.

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fee, shall be assisted by punchayets when demanded, and shall possess jurisdiction over such a number of villages as that there be four or five in a zillah.*

9th. That the original jurisdiction of this Court shall extend to all suits for personal property or mulguzzary land not exceeding two hundred rupees, or lackerage land not exceeding twenty rupees, and that its decision shall be final in original cases for no more than five pagodas, in appealed cases for no more than ten pagodas, and in special cases of the same kind as those to which the third article has reference. †

10th. That suits brought before the village courts shall not be charged with institution fees or stamp duties. ‡

Under the same branch of the subject, the Honourable Court direct that no appeal may in future lie from the decision of a zillah court, on any appeal from the Register or from any native tribunal; and issue the instructions enumerated under the six first heads of the third paragraph of Colonel Munro's letter of the 24th of December; § and also call for certain reports from the Sudder Adawlut. ||

The second branch of the general subject discussed in the Honourable Court's dispatch concerns the present police arrangements. The Honourable Court again advert to the hereditary influence and local information of the Potail and Curnum, and observe that, in the discharge of police functions, they had the aid of Talliars and Toties, remunerated in the same manner as they were.¶ They quote testimony in favour of these instruments of police administration, remarking that it is only through them that the co-operation of the people can be obtained.** The Honourable Court express their opinion, that the permanent settlement presents no obstacle to the employment of the village officers in police duties. †† They state, that Darogahs and Peons must constitute a very inefficient system of police, and that the system, after a fair trial has utterly failed in Bengal. ‡‡ They therefore direct, that the village police shall every where be restored to its former efficiency, expressing a conviction that the greater part of the present Darogah Establishments may then be reduced, as well as the police corps, still maintained at a heavy expense.§§ With reference to a proposal brought forward in 1806, the Honourable Court remark that they will not object to the employment of the Zemindars for purposes of police. |||| They describe it as a point of essential and indispensable importance, that the superintendence and control of the police should be transferred to the Collectors, pointing out the propriety of the transfer, on the ground of its being conformable to the ancient usage of the country, and observing that clashing and collision would follow the separation of revenue and police authorities, and that both would thereby be paralysed.¶¶ They state that, without discussing the subject of uniting revenue and judicial power, they are satisfied that revenue and police power may safely and advantageously be united. *** They observe that the *Tehsildar* seems to be the best intermediate authority between the Collector and the village officers, and that the employment of the Tehsildar in that manner rests on the same grounds of propriety as the transfer of police duties to the Collector. ††† They conclude their remarks on this branch of the subject with stating, that the police system proposed by them is, in their opinion, the best practicable, and with enumerating the agents who under it will be employed by the Collector for the purposes of police. ‡‡‡

The last branch of the subject, as divided in the Honourable Court's dispatch, regards the administration of criminal justice. The Honourable Court state,§§§ that although the provincial courts will, under the proposed modifications of the system of judicature, have little more than the criminal business of their circuit to attend to, yet in consequence of the impediments to the vigorous execution of the criminal laws, created by the great local extent of the jurisdiction of those courts, they nevertheless are strongly impressed with the opinion, that zillah Judges should be invested with a certain jurisdiction in criminal

* Paragraph 67 to 69. † Par. 70. ‡ Par. 27. § Par. 23 to 27 and 30.
|| Par. 72 ¶ Par. 73. ** Par. 74 to 81. †† Par. 82, 83. ‡‡ Par. 84.
§§ Par. 85, 94. |||| Par. 86, 87, 88. ¶¶ Par. 89, 90, 91, 95. *** Par. 93.
††† Par. 95. ‡‡‡ Par. 96, 97. §§§ Par. 98 to 102.

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minal matters, now cognizable only by the circuit courts They also conceive, that it would be desirable that Collectors, acting as Magistrates, should be empowered to punish offenders to a limited extent, and that it is worthy of consideration whether the Collector should be associated with the zillah Judge for the trial of offences at quarterly sessions. They further desire* that the Government shall consider whether, in cases where guilt is clearly established, and where there seems no room for mercy, the sentence of the circuit court ought not immediately to be executed with reference to the Foujdarry Adawlut, and whether any of the present forms of proceeding in the circuit court might not admit of being advantageously simplified. They express their confidence, that the modifications of the judicial system will enable the Government at once to abolish the office of Assistant Judge.

The Honourable Court's dispatch concludes with some remarks not necessarily connected with the three branches of the subject discussed in the preceding part of it. They urge the enforcement of the pottah Regulation,† as tending to render the respective rights and obligations of both landholders and tenants more certain, and to facilitate the adjustment of disputes concerning rent and cultivation, and as affording the best safeguard against the abuse of the power of distraint. They observe ‡ that this matter falls under the superintendence of the Collector in his magisterial capacity, who ought to take cognizance both of the refusal and of the neglect to grant pottahs. They state that arrears of rent should not be receivable, except on pottah; nor distraint allowed, without an order from the Collector. They signify, however, that it is not their intention, that the existing provisions as to the rates of assessment should be affected by the enforcement of the pottah Regulations. They desire that boundary disputes may be settled by the Collector and the officers subordinate to him, on the verdict of a punchayet. They conclude the letter with injunctions, that the Regulations be expressed in familiar language, divested of technical terms borrowed from the legal forms and phrases of England, and that they be promulgated as effectually as possible.

Having thus surveyed the whole contents of the Honourable Court's dispatch, it remains for the Governor in Council to assign to the proper authorities the measures which, in pursuance of the Honourable Court's orders, they are respectively called upon to execute.

I. A Regulation is required for establishing village courts, in conformity to the instructions contained in the 60th, 61st, 62d, 63d, 64th, 65th, 66th, and 71st paragraphs of the Honourable Court's letter. The special Commission will prepare the draft of this Regulation, and submit it to Government through the prescribed channel of the Sudder Adawlut; but it may be necessary for them previously to ascertain the following points, viz. 1st. Whether the office of Potail universally exists and is vested in one person; 2d. Whether the Potail be willing to undertake the duty proposed to be assigned to him; 3d. Whether the mauniums, fees and shares of produce, which are supposed to constitute the recompense of his labours, are in all cases still continued.

II. A Regulation is required for establishing district courts, in conformity to the instructions contained in the 67th, 68th, 69th, and 70th paragraphs of the Honourable Court's letter. The Commission will, in the same manner, prepare and submit the draft of the Regulation; but it may be necessary for them previously to ascertain, whether there are individuals possessed of sufficient rank and respectability to preside over the proposed district courts.

III. The general right of appeal must be limited, and the extension of the power of admitting special appeals must be taken into consideration, according to the instructions contained in the 27th paragraph of the Honourable Court's letter.

IV. The forms of civil process must be revised, according to the instructions contained in the 23d, 24th, and 25th paragraphs of the Honourable Court's letter.

V. It

* Paragraph 103. † Par. 105, 106. ‡ Par. 107.

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V. It must be taken into consideration how far the employment of licensed Vakeels is useful and necessary, according to the instructions contained in the 26th paragraph of the Honourable Court's letter.

VI. The effect of institution fees and stamp duties must be taken into consideration, with a view to the sentiments expressed in the 30th paragraph of the Honourable Court's letter.

VII. Periodical reports must be furnished, according to the instructions contained in the 72d paragraph of the Honourable Court's letter.

The five articles last mentioned will be referred to the Sudder Adawlut, in order that they may take the proper steps for giving full effect to the instructions of the Honourable Court.

VIII. The village police is every where to be restored to its former efficiency. This task falls to the Commission, who in executing it will derive assistance from the proceedings of the Police Committees which sat at this presidency in the years 1806 and 1813. The points to which the attention of the Commission will require to be directed are the following, viz. 1st. Whether the Talliars are sufficiently numerous; 2d. Whether they are sufficiently renumerated; 3d. Whether the Potails are fit to be entrusted with the charge of the police of their villages; and 4th. Whether they are willing to undertake it. After investigating those points, the Commission will prepare the draft of a Regulation for carrying the proposed arrangement into effect, and submit it through the Sudder Adawlut.

IX. In consequence of the remarks contained in the 85th and 94th paragraphs of the Honourable Court's letter, it will be proper to call upon the Accountant-General for a comparative statement of the police and sibbendy corps maintained from 1790 to 1802, and from 1802 to 1814, and of the expense respectively attending them, and to call upon the Commission for a statement of the whole charges of every description, including cavelly and other fees, mauniums and shares of produce, formerly incurred on account of municipal establishments, which may from time to time have been resumed under the revenue arrangements of this presidency. It is manifest that such statements are requisite, to enable the Honourable Court to judge how far the present charges are comparatively great or small.

X. The Commission are to provide for the employment of Zemindars in the duties of police, to the degree which they may consider expedient, under the authority granted in the 87th paragraph of the Honourable Court's letter.

XI. The Commission are to prepare and submit, through the Sudder Adawlut, the draft of a Regulation for transferring the superintendence and control of the police to the Collector, in conformity to the instructions contained in the 88th, 89th, 90th, 93d, 94th, 95th, 96th, and 97th paragraphs of the Honourable Court's letter.

Colonel Munro has stated, in his letter of the 24th of December, that all the other alterations in the Judicial system which the Court of Directors have ordered are subordinate to and dependent upon this; but the observation is correct only, if it be confined to the Honourable Court's orders regarding the administration of police. The modifications of the established system of judicature, prescribed by the Honourable Court, are clearly not dependent upon the transfer of the police to the Collector's charge, and may be adopted with equal facility and success whether that transfer take place or not. The same remark may be made with regard to several of the proposed changes in the administration of criminal justice. But the transfer is unquestionably a measure of great importance, and in the judgment of the Governor in Council is likely to produce the most beneficial consequences. Colonel Munro has, however, stated, that the transfer is to include not merely the superintendence and control of the police, which alone are specified in the instructions contained in the 88th paragraph of the Honourable Court's letter, but also the whole duties of the magistrate, and has referred to two paragraphs which contained incidental expressions favouring that opinion. The grounds on which the Governor in Council inclines to judge differently of the Honourable Court's intention are,

1st. That

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1st. That their letter contains no directions for taking away the powers of Magistrate from the zillah Judge, though that measure would involve a greater radical change of system than the transfer of the superintendence of police, which is ordered in terms the most pointed in the whole letter. 2dly. That the nature and extent of the proposed transfer seems to be accurately defined by the remark of the Honourable Court in the 88th paragraph, that a proposition to the effect of their order for the transfer was recommended by the Police Committee in 1806, who so far from recommending that the powers of a Magistrate should be conferred on the Collector, expressly founded their recommendation for transferring to him the superintendence of police, on the security against abuse afforded by his not possessing magisterial powers. 3dly. That it is by no means necessary to the efficiency of the Collector's superintendence of police, that he should be vested with the powers of a magistrate, and 4thly. That the suggestion to invest the Collector with specific magisterial powers, contained in the 102nd paragraph of the Honourable Court's letter, is inconsistent with the intention to transfer the whole powers of Magistrate from the zillah judge to that officer.

In the Regulation which is to be prepared, the Commission will therefore confine themselves to the transfer of the superintendence and controul of police to the Collector ; but they will submit their opinion, as to the expediency of the further transfer which Colonel Munro conceives to have been in the contemplation of the Court of Directors. The Foujdarry Adawlut and Revenue Board, also, will state their opinion on the same point ; and the Revenue Board, in particular, adverting to the other avocations of the Collector, will state whether they consider him capable of undertaking the whole duties of Magistrate, as laid down in the Regulations, without increased assistance or preparation for his new office.

XII. The Foujdarry Adawlut are to prepare the draft of a Regulation vesting in zillah Judges the jurisdiction in criminal matters, stated in the 102d paragraph of the Honourable Court's letter to be desirable.

XIII. The Foujdarry Adawlut and the Commission are respectively to report their opinion as to the expediency of vesting in Collectors certain powers of punishment, as proposed in the 102d paragraph of the Honourable Court's letter.

XIV. The Foujdarry Adawlut and the Commission are respectively to report their opinion as to the expediency of associating the Collector with the zillah Judge at quarterly sessions, as proposed in the 102d paragraph of the Honourable Court's letter.

XV. The Foujdarry Adawlut are to report their opinion as to the expediency of vesting in the circuit courts the power of executing sentence in certain cases, without reference to their authority, as suggested in the 103d paragraph of the Honourable Court's letter.

XVI. The Foujdarry Adawlut are to revise the forms of criminal process, with the view of simplifying them, according to the instructions contained in the 103d paragraph of the Honourable Court's letter.

XVII. The Board of Revenue are to prepare and submit, through the Sudder Adawlut, the drafts of Regulations for securing the enforcement of the rules respecting pottahs, by an adequate process, under the superintendence of the Collector, for rendering arrears of rent not receivable except on pottah, and for prohibiting Zemindars from distraining property for arrears of rent, without an order from the Collector in conformity to the instructions contained in the 105th, 106th, 107th, and 108th paragraphs of the Honourable Court's letter.

XVIII. The Commission are to prepare and submit, through the Sudder Adawlut, the draft of a Regulation for requiring boundary disputes to be settled by the Collector on the verdict of a punchayet, according to the instructions contained in the 109th paragraph of the Honourable Court's letter.

The Sudder Adawlut, the Revenue Board, and the Commission, will observe the instructions contained in the last paragraph of the Honourable Court's letter,

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ter, with respect to the language in which the Regulations prepared by them are to be expressed.

On several of the points referred to the Sudder Adawlut, it will be necessary that they should take the opinion of the Judges of the provincial and zillah courts; and no time should be lost by them in adopting that preliminary measure, and afterwards in framing the reports and regulations which are called for. The Revenue Board, also, will use all practicable dispatch in executing those parts of the general undertaking which are assigned to them. Independently of the attention due to the interest which the subject has excited among the authorities in England, it is desirable that the Commission should be dissolved as soon as it has answered the end of its appointment.

The members of the Commission will probably experience the same difficulties which occurred to the late Police Committee in their endeavours to procure accurate information regarding the establishment of village officers, the allowances of every description originally allotted for their support, the subsequent appropriation of those allowances, their competency and their inclination to undertake the offices respectively to be assigned to them; and on these different points, as well as on special duties arising out of the ordinary course of the service which the Government may think fit to impose upon the Commission, they may from time to time find it necessary to conduct local investigations on the spot. It will be their care to conduct all such investigations through the local officers, to conform to the established system of internal administration, to avoid every measure which might have a tendency to unsettle the minds of the people with regard to that system and destroy their confidence in its permanency, and to strengthen and uphold the legitimate influence of all the constituted authorities of the Government.

Resolved, That copies of these proceedings be furnished, respectively, for the information and guidance of the Sudder Adawlut, the Board of Revenue, and the Commission for revising the system of internal administration.

(A true extract.)
(Signed) D. HILL,
Secretary to Government.

SECRETARY *to the* MADRAS GOVERNMENT *to* SECRETARY *at the* INDIA-HOUSE,

Dated the 5th July, 1815.

To James Cobb, Esq. Secretary at the India-House.

Letter from Madras, 5 July 1815.

SIR:

Par. 1. I am directed by the Right Honourable the Governor in Council to request that you will lay before the Honourable the Court of Directors the undermentioned papers relating to the Commission for the revision of the judicial system, viz.

1. Letter from the Commissioners, dated 28th March, 1815.

2. Minute of the Right Honourable the Governor, dated 13th May, 1815.

3. Letter to the Commissioners, dated 13th May, 1815.

4. Letter to the Secretary to the Government at Fort William, dated 13th May, 1815.

5. Letter from the acting Secretary to the Government at Fort William, dated 6th June, 1815.

2. The papers above enumerated form the whole correspondence of any consequence, with respect to the Commission, that has taken place since my letter of the 4th January 1815 was written.

I have the honour to be, Sir,
Your most obedient humble servant,
D. HILL,
Secretary to Government.

Fort St. George, 5th July, 1815.

JUDICIAL COMMISSIONERS *to the* CHIEF SECRETARY *at* MADRAS,

Dated the 28th March, 1815.

To the Chief Secretary to Government.

SIR,

Par. 1. WE have had the honour to receive a letter from the Secretary to Government in the Judicial department, enclosing an extract from the minutes in Council bearing date the 1st instant.

Letter from Judicial Commissioners, 28 March 1815.

2. We are directed by these minutes to prepare several Regulations for modifying the present judicial system; but we are also directed previously to ascertain the number of the village officers to be employed under those Regulations, their allowances in land, grain, and money, and their willingness and competence to undertake the duties assigned to them, as we think that the Regulations should be prepared and issued as soon as possible, and not be deferred until an accurate knowledge of these matters has been acquired, and that by a contrary course of proceeding no useful end could be gained, and the business of the commission would be protracted far beyond the period limited by the Court of Directors. We beg leave to submit respectfully to the Right Honourable the President our reasons for entertaining this opinion.

3. By clause I. of the minutes, the Commission are ordered to prepare a Regulation for village courts, in conformity to the Honourable Court's letter; and it is then observed, " but it may be necessary for them previously to as- " certain the following points:

" 1st. Whether the office of Potail universally exists and is vested in one " person.

" 2d. Whether the Potail be willing to undertake the duty proposed to be " assigned to him.

" 3d. Whether the mauniums, fees, and shares of produce, which are sup- " posed to constitute the recompence of his labours are in all cases still con- " tinued."

4. We do not think it necessary that the Regulations should wait until these points are ascertained.

We know that the office of Potail, or something similar to it, which answers all the objects for which that office can be required, is universal: that villages are in general under a single potail: that where they are under two or more Potails, one only is the actual manager of the village: that in aggraharrems, and other villages divided into shares, and held as hereditary property by communities of Bramins or Ryots, where the shares are interchangeable at specific intervals among all the members, and where the rights of all are equal, there is always some one individual to whom the rest submit, either on account of his abilities or some other cause, who commands the village servants and directs its affairs: that under the permanent system, where the internal economy of the village has in some instances been deranged by the removal of the ancient Potail, either the actual renter, or some person appointed by him, acts in his room: that in the great zemindarries, the village is either managed by a Potail or by some individual nominated to act as such by the Zemindar; and, in fine, that in every village there is some one person, however he may be denominated, who is its efficient head and manager.

5. With regard to the second point, " whether the Potail be willing to " undertake the duty proposed to be assigned to him," it may be remarked, that there is nothing in the duty now proposed different from that which has been discharged by the Potail at all times under every native government, and even under our own, until the introduction of the judicial system: that he has always been accustomed, either by himself or by means of a punchayet, to settle the petty suits of his village: that the observance of this custom has always been obligatory, never optional: and that to leave to such a body of men as the heads of villages the option of performing or not one of the most important

Letter from Judicial Commissioners, 28 March, 1815.

portant duties of their office, would be productive of very great inconveniency, for there can be little doubt but that among the Potails, as among all large bodies of men, a great number will wish to be relieved from as much labour and responsibility as possible, and decline the exercise of every duty, wherever it is left optional with themselves. The object of the Court of Directors of having petty village disputes settled on the spot, would thus be in a great measure frustrated by the Potails, to whom alone this duty can with propriety be entrusted, refusing to act. It would therefore be more advisable not to consult their opinions, but to issue the Regulation; and provided its clauses are few and simple, adapted to the understandings of men in their situation in life, they will conform to it without the smallest objection.

6. With regard to the third point, " Whether the mauniums, fees, and " shares of produce, which are supposed to constitute the recompense of his " labours, are in all cases still continued," it does not appear to be necessary that the framing of the Regulation should be suspended until this matter shall have been ascertained. We know that whatever those allowances formerly were, they are in general the same now; that upon them he discharged the duty in question under the native Government, and even under our own until lately, and may therefore do so again; and that, under the permanent settlement, or decennial lease, in those cases where the Potail has declined to rent his village, and receives in consequence only a part of his service lands and fees, the new proprietor or renter who succeeds to his office succeeds also to all the obligations of it, and is bound by the immemorial usage of the country to discharge them. Cases of a parallel nature formerly occurred every day in the unsettled districts. Whenever the Potail, from sickness, incapacity, minority, or other cause, was incapable of acting, and had no near relation qualified to act for him, a stranger was appointed to officiate, who received a share only of the Potail's allowances, and performed all his duties. It would certainly be desirable to obtain correct statements of the service lands and fees, &c. of the Potails; but when it is considered how few districts possess such statements, in how many the statements which exist are founded upon vague information, and in how many they have never been yet collected from the villages, and how much time must elapse before they can be procured with any tolerable degree of accuracy, it would unquestionably be better that the preparation of these documents should follow, rather than precede, the framing of the proposed Regulation.

7. The Commission are directed to prepare a Regulation for establishing district courts; but they are told, at the same time, that " it may be neces- " sary for them previously to ascertain whether there are individuals possessed " of sufficient rank and respectability to preside over the proposed district " courts." We have no doubt that such individuals may be found ; but their being willing to act or not must depend, in a considerable degree, on the nature of the duties required, and the amount of the fees or salary to be granted for the performance of them. We are therefore of opinion, that the Regulation should be framed with as little delay as possible, and transmitted, together with a statement of the allowances fixed by Government for the district courts, to the zillah Judges ; and that these courts shall be established, whenever the zillah Judges shall report their having found persons properly qualified to preside over them. Many of the present Commissioners are in the class of men required for this office. They might be transferred to their new duties on the enactment of the Regulation, and would be more efficient from previous experience. The causes settled by them the last year exceeded twenty-six thousand.* To make their situations more independent, to extend their jurisdiction, and to increase their numbers where necessary without delay, is in fact meeting the demands of the country for more speedy justice in matters cognizable by such tribunals.

8. The draft of a Regulation for restoring the village police is required from the Commission ; but they are directed to ascertain four points previous to its preparation.

* Decreed or dismissed	16,801
Adjusted by Razeenamah	9,916
	26,717

Letter from Judicial Commissioners, 28 March 1815.

preparation. With respect to the two first of these, namely, "1st, whether the "Talliars are sufficiently numerous; 2d, whether they are sufficiently remu- "nerated;" we may remark, that much labour has already been bestowed by two police Committees on this matter, and that by the last all the information that is perhaps attainable in the present state of things has been drawn together. When we reflect that it is now ten years since the first Committee began its inquiries, and above three years since the letter of the Chief Secretary, calling for the statements upon which the last Committee founded their report, was circulated, and that the information is still defective, we cannot suppose that any investigation of the Commission would render it more perfect, or extract from the local authorities any thing which they have not already furnished to the last Committee; for we are satisfied that, however desirous these authorities might be to throw additional light upon the subject, it is in most of the settled districts impossible for them to do so, both because the requisite investigations were not undertaken before the permanent settlement, and because since that event they have not had sufficient controul over the Curnums to make them with any effect. But this is of the less consequence, because we know that the duties of the village police have, in general, always been, and in fact still are executed by the present establishment of Talliars, and may therefore still continue to be executed by them: and hence we conceive that the Regulation should be framed and issued as soon as possible, without waiting for the ascertainment of the number of Talliars and their allowances. This may be made a subject of future inquiry; but cannot, as already said, under the present revenue Regulations lead to much additional knowledge, and could not probably, under any change, enable us to obtain the requisite information in less than two or three years.

9. The other two points which the Commission are directed to ascertain, previous to drafting the Regulation, are, "whether the Potails are fit to be en- "trusted with the charge of the police of their villages," and "whether they "are willing to undertake it." With regard to the fitness of the Potails, we are convinced, both from our own experience and from every thing that we have been able to learn on the subject, that they are fitter than any other set of men to be entrusted with the village police. The influence which they derive from their situation as head of the village, qualifies them, in a higher degree than any other persons, for the charge of the police; and as they have always been entrusted with it, they join to influence the advantage of experience. No other men could be substituted for them without incurring a heavy expense; nor would they be found equally useful with all their expense. Even under our own judicial system, the impossibility of dispensing with the service of the Potails seems to have been felt, for the village police has in general been virtually managed by them, though nominally by the Darogah establishment. There are, undoubtedly, many Potails very little qualified for the charge of the police; but this is a defect unavoidable in every institution similarly extensive, and where incapacity is notorious it may be remedied in the usual way, by the local authority appointing a substitute. No opinion of ours, as to the competency of Potails, can be of any use, as the question has already been decided by the Honourable Court of Directors,* who have pronounced the Potails to be the fittest instruments for the management of the village police, and have ordered them to be appointed to it.

10. With respect to the last point to be ascertained, viz. "Whether the Po- "tails are willing to undertake the charge of the police." This has been answered in paragraph 4, in giving our sentiments of the employment of the Potails as village Commissioners. It may further be remarked, that the charge of the police being a condition inseparably attached to their office, it could answer no good purpose to give them room to suppose that it might be declined under any circumstances; for this would lead them to believe that some great change was intended, that the discharge of their police duty was to be optional, or that if they agreed to hold it they were to receive some additional allowance.

11. The Commission will furnish the statement directed by clause 9 of the minute of the whole charges, of every description, formerly incurred on account of

* Paragraphs 66 and 67, Judicial Letter from the Court of Directors, 29 April 1814

Letter from Judicial Commissioners, 28 March 1815.

of municipal establishments, which may have been resumed under the Revenue arrangements of this Presidency. But, in order to enable them to prepare it, it will be necessary that the local authorities be immediately directed to furnish whatever documents they may call for, and to assemble the Potails, Curnums, or other native village or district servants, whenever they may require it, for the sake of receiving additional information on the spot."

12. The Commission, as directed in clauses 10 and 11 of the President in Council's minute, will provide for the employment of Zemindars in the Police, and prepare and submit, through the Sudder Adawlut, the draft of a Regulation for transferring the superintendence and control of the police to the Collector. In this Regulation they will confine themselves to the transfer of the police; but as they are required to "submit their opinion as to the expediency "of the further transfer which Colonel Munro conceives to have been in the "contemplation of the Court of Directors," they deem it advisable that that opinion should be expressed as early as possible, and will therefore give it here.

13. We think it expedient that the office of Magistrate should be entirely transferred to the Collector. Our reasons for this opinion are: that there seems to be no other way of preventing the collision of the European local authorities, for it is extremely difficult, if not impossible, to draw such a line of separation between the power of the Magistrate and of the Superintendant of Police as shall produce this effect: that while this collision subsists, the respectability of both will sink in the estimation of the natives, and neither be efficient: that the village officers will still be equally at the call of either, and be distracted in their duties, as observed by the Court of Directors:* that the system of the village municipalities, in which every member has revenue duties to perform, is calculated to be directed by the single authority of the Collector: that if the full transfer is not made, the complaints, prosecutions for petty offences, such as abusive language, calumny, inconsiderable assaults and affrays, which by Regulation VI, section 8, are cognizable only by the Magistrate, must still be carried to the zillah court, and still prove a source of great vexation to the inhabitants, by their being compelled to go so far from their homes: that if the full transfer were made, all these matters would be cognizable by the Collector, as Magistrate, and might be settled on the spot, either by himself or his Amildars, vested with authority to hear complaints of this nature, and to impose a trifling fine, but not to inflict corporal punishment: that the offices of Magistrate and Judge being united in one person, oblige the Judge to bestow so great a portion of his time on magisterial duties, that he has too little left for the hearing of civil suits, and hence the decisions are so slow, that many persons are discouraged from bringing forward their causes, from perceiving the impossibility of their being adjusted within any reasonable period: that by making the transfer, and limiting the jurisdiction of the zillah Judge to civil suits, justice might be so much expedited as to enable the courts to answer the demands of the country, to which they are at present certainly very unequal, and a considerable saving might also be made in the magisterial establishment: and lastly, that the complete transfer is enjoined by the Court of Directors, and forms a part of their instructions in their Judicial letter of the 29th April last. The chief objects of the Court, throughout that dispatch, evidently are, that the collision of authorities should be prevented, the administration of justice be facilitated, and the expense of the Judicial establishment be diminished; but none of these can be accomplished, while the zillah Judge retains the office of magistrate, for the clashing of authorities must continue as before, by the village and district servants still remaining subject to the orders both of the Judge and the Collector, the administration of justice must still be impeded by a great portion of the Judge's time being occupied in magisterial duties, and no one court can be reduced in order to effect a saving, while the whole of the courts, by so much of the time of the Judges being so employed, are inadequate to the discharge of the business before them.

The Court, after expressing their intentions respecting the restoration of the village police, never once speak of the zillah Judge as Magistrate: wherever the term isused, it is constantly applied to the Collector alone.

They

* Paragraph 90.

Letter from Judicial Commissioners, 28 March 1815.

They call the serious attention of Government to the necessity of re-establishing the village police agreeably to the usage of the country, and of placing it under the orders and control of the *Magistrate.**

They notice "the services which will be rendered to the Magistrates by this "police agency;"† and that no doubt may remain who the *Magistrate* is, under whom this police agency is to be employed, they state that the Superintendance of the Police is to be transferred to the Collectors;‡ and in a subsequent paragraph, that to the Collector they "*propose* to transfer the duties of Magi-"strate."§ But nothing can be more conclusive, as to the intention of the Court to transfer the whole power of the magistrate to the Collector, than the paragraph in which they suggest that the zillah Judges should be authorized to hold quarterly sessions for the trial of certain criminal offences.|| Their words are, "to hear and determine all cases of public offence not of a capital nature, "and now cognizable by the courts of circuit only, which might be *brought* "*before them by the Collector in his magisterial capacity.*" If it had been the design of the Court that the zillah Judge should retain his magisterial authority, why distinctly specify that the offenders were to be brought before him by the Collector in his magisterial capacity, since he might, as Magistrate, bring them forward himself; but it surely will not be admitted, that the Court could ever have meant that the zillah Judge, as Magistrate, should again try offenders committed for trial by himself.

The court propose to give Collectors, "as the magistrates of zillahs,"¶ authority to fine to the amount of one hundred rupees, and to imprison for three months; authority beyond that which the zillah Judges, under Sections 8 and 9, Regulation VI. 1802, now possess. It never could have been in the contemplation of the Court, that the office of Magistrate was to remain with the zillah Judge; for, in this case, it cannot be supposed that they would have conferred on the Collector, as superintendant of the Police, powers superior to those of the zillah Judge as Magistrate. That the Court looked to the Collector only as Magistrate is further confirmed, by their investing him with the authority of enforcing the pottah Regulation, and taking cognizance of all branches of it, and the sole power of distraining for rent and of determining boundary disputes.** These are all matters that obviously belong to the jurisdiction, not of the mere Police officer, but of the Magistrate. The additional powers which are here proposed to be given to the Collector, as well as those already quoted from paragraph 102 of the Court's letter, show plainly that it was their intention, not only that the Collector should be Magistrate, but Magistrate with augmented authority.

14. For all the reasons which have been adduced, we are fully convinced that it is expedient that the office of Magistrate should be completely transferred to the Collector, that this transfer is conformable to the instructions of the Court of Directors, and that it would, as they observe, "very much "conduce to the more prompt and convenient administration of criminal "justice."

15. With regard to the powers of punishment, proposed to be vested in Collectors by the 102d paragraph of the Honourable Court's letter, we are of opinion that they ought to be given to him, whether he is constituted Magistrate, or merely Superintendant of Police; for though, as head of the Police, he can very rarely have occasion to exercise them to their full extent, it may yet sometimes be necessary, particularly in cases of disputed boundaries.

16. The Commission conceive that the associating the Collector with the zillah Judge at quarterly sessions, as proposed in the 102d paragraph of the Honourable Court's letter, would be attended with too many inconveniences to render it a measure fit for adoption. They think that the Judge and the Collector ought to be kept apart as much as possible; because the presence of the Collector could be of no use in a court, where he would necessarily be subordinate to the Judge, and where the differences of opinion which too often arise out of the nature of their respective duties, would most probably be increased; and because the Collector ought at all times to be at liberty to go to any

* Paragraph 84. † Par. 85. ‡ Par. 88, 89, 90. § Par. 95.
|| Par. 102. ¶ Ditto. ** Par. 106, 107, 109.

Letter from Judicial Commissioners, 28 March 1815.

any part of his division where his presence is most required, and because he ought not to sit in judgment on offenders, whom he has already himself committed as Magistrate or Superintendant of the Police.

17. The Commission entertain some doubt as to the expediency of the establishment of the zillah quarterly sessions at all, for they believe that they will impede the civil, more than they will advance the criminal business of the courts; and they apprehend that the chief motive of the Court of Directors, in proposing their institution, was the idea that the circuit Judges were unable to get through their business within the prescribed period, an objection which does not now appear to exist, for since the enactment of Regulation I. of 1811, for providing a quarterly jail delivery in the zillahs of Masulipatam, Chittoor, Trichinopoly, and North Malabar, the circuits have always been compleated by the circuit Judges within six months, the time limited.

18. The Commission will submit, through the Sudder Adawlut, the draft of a Regulation for the settlement of boundary disputes by the Collector.

19. The minds of the Commission ars so deeply impressed with the difficulties which occurred to the late Police Committee in the prosecution of their inquiries, that they can have no hope of being able to add any thing to the information already collected by them. If any thing can be added, it can be done only by investigations upon the spot. These investigations are always most easily conducted through the local officers, and the commission will therefore follow that course, as far as it can be done with effect: but when it is found that the information wanted cannot be got from the local officers, the Commission must, like the Collectors or Magistrates in similar circumstances, have recourse to such of the inhabitants as are most likely to be able to furnish it.

20. It is essential to the success of every investigation of this sort that the Commission should at all times have a free intercourse with the inhabitants. Both in their communications with them and on all other occasions, the Commission need hardly observe that they will "conform to the established system "of internal administration," and that they will endeavour "to strengthen "and uphold the legitimate influence of all the constituted authorities of the "Government:" but they at the same time respectfully suggest, that by far the shortest and most efficacious way of preventing the minds of the people from being unsettled, with regard to the permanency of the present system, would be to publish, with as little delay as possible, all the Regulations required under the proposed changes which most immediately affect any considerable body of the people, and to circulate them, so as to reach the district as soon as the Commission. This, by showing at once to the people the whole extent of the proposed change, would satisfy them that no material innovation was meditated in the existing system, and would remove every doubt regarding its permanency; and it would also enable the Commission to convince them, that the modifications introduced were not intended to weaken or destroy, but to strengthen and improve it, by bringing its advantages nearer to them.

21. The Regulations to which the Commission allude, as those which will most directly concern the interests of the people, are the following six, viz.

1st. A Regulation for the establishment of village courts.

2d. For the establishment of district courts.

3d. For placing the village police under the heads of villages.

4th. For transferring the police of zillahs to the Collectors.

5th. For placing the control of distraint, and the enforcement of the Pottah Regulations, in the hands of the Collector.

6th. For the settlement of boundary disputes by the Collector.

22. The Commission have already thoroughly urged the necessity of issuing the three first of these Regulations, without waiting for any further inquiry regarding the number and allowances of the Potails and Talliars, and their competency or willingness to discharge the duties assigned to them. It is evident,

evident, from the difficulties which the late Police Committee experienced in procuring information on those matters, that were the Regulations to be kept back until they should have been accurately ascertained, the time allotted for the duration of the Commission would have expired long before the Regulations could be published. The Commission, therefore, feel it their duty to recommend that the Regulations be issued without delay, and that the information required on such points as the Government, after this explanation, may still deem indispensable, be made the subject of future investigation.

Letter from Judicial Commissioners, 28 March 1815.

23. The Commission have, in the course of this letter, stated it to be their firm belief, that it is expedient that the whole duties of the Magistrate should be transferred to the Collector, and that the powers of punishment proposed to be vested in Collectors, by the 102d paragraph of the Honourable Court's letter, should be granted, whether they act as Magistrates or as Superintendants of Police only. They have given their reasons for thinking it unadvisable that the Collector should be associated with the Judge at quarterly sessions, and they have ventured to express a doubt of the expediency of such sessions being held by the zillah Judge.

They have delivered their opinions freely, but they trust respectfully, and they submit them with deference to the consideration of Government.

We have the honour to be, Sir,

Your most obedient humble servants,

(Signed) THO^s. MUNRO,
First Commissioner.

GEO. STRATTON,
Second Commissioner.

Madras, 28 March, 1815.

PRESIDENT'S MINUTE, *dated the* 13*th May*, 1815.

President's Minute, 13 May 1815.

SINCE I had the honour of taking my seat as President at this Board, its attention has been constantly directed to the letter of the 29th April 1814, in the Judicial department, from the Honourable Court of Directors, as also to the subsequent letter upon the same subject, of the 4th May 1814.

Those two letters have been taken into our most serious consideration, and, I am happy to observe, with the strongest desire, on our part, to forward the execution of the orders of the Honourable Court, in the light in which they have appeared to us, after a reference to the import of each particular paragraph, as well as the general tenor of the whole of the instruction.

In so voluminous a dispatch, relating to matters equally extensive and complex, it may be naturally expected that a degree of ambiguity of expression may sometimes occur; and, indeed, where so much reasoning is mixed with the orders transmitted, it must, I think, be inferred, that in the eventual execution of those orders, great latitude of discretion is left to us, to whom they are addressed.

Upon the general spirit of the Regulations to be established, in consequence of the orders of the Court of Directors, there appears to me to exist little difference of opinion at this Board; and, certainly, in no degree sufficient to prevent us from carrying into immediate effect some of the most prominent features of the system about to be established, although, according to our unanimous opinion, there still remain some points upon which the instructions of the Court of Directors do not appear to us to be so precise as to preclude the free exercise of our own judgment, either in regard to their interpretation or to their final accomplishment.

I need here only recapitulate briefly the progressive steps we have already taken towards the furtherance of the revision of the Judicial system, and the

 establishment

President's Minute, 13 May 1815.

establishment of such new Regulations, under our sanction, as we conceive to be in the contemplation of the Court of Directors.

Colonel Thomas Munro, who was particularly designated by the Court of Directors, on account of his great experience and acknowledged abilities, as a proper person to preside at any Commission we might think fit to institute, was early appointed First Commissioner, and, at his subsequent recommendation, Mr. Stratton has been joined to the Commission, as second Commissioner.

Upon further investigation it occurred to myself, as also to Colonel Munro, that no step could contribute more effectually towards hastening the progress of the labours of the Commission, than the appointment of Mr. Stratton, the Second Commissioner, to be one of the Judges of the Sudder Adawlut, with which court so great a proportion of the business to be transacted by the Commissioners is intimately connected. The proper measures were also adopted for putting the Commissioners in direct correspondence and communication with all the local authorities, to which it may become their duty to apply for information or assistance. I need not mention the other steps which have been taken, and which are to be authentically traced in the documents which, by order of the Board, have been printed, and circulated among those whom they concern. From these it will be collected, that the Commissioners have been required to draw up certain Regulations, as pointed out by this Government in conformity to the directions contained in the instructions from the Honourable Court of Directors; and I have the satisfaction to add, that the Commissioners are now assiduously occupied in framing such Regulations.

I did not apprehend that any obstacle was likely to intervene, to prevent the promulgation of the Regulations as soon as they could be submitted to this Government. With regret I have now, however, to observe, that a very serious delay is likely to ensue from an unforeseen circumstance. In a letter from the Supreme Government to Lord William Bentinck, Governor in Council at Fort St. George, of the 19th July 1804, is the annexed paragraph,* by which the Governor in Council at Fort St. George is required, in future, not finally to pass any Regulation until it shall have received the approbation of the Supreme Government. I confess it struck me, at first, that this prohibition could scarcely be meant to apply to the promulgation of Regulations drawn up in conformity to orders issued by the Court of Directors to the Government at Fort St. George; but as some time will elapse before these Regulations can be submitted by the Commissioners, I propose,

1st. To send to the Supreme Government copies of the Court's letter and of our resolutions thereon.

2ndly. To state to them that a doubt has arisen, in consequence of the letter of the 19th July 1804, from the Supreme Government to the Governor in Council at Fort St. George, whether that letter is meant to apply only to such Regulations as may have been framed by the Governor in Council at Fort St. George, independent of any specific orders from the Court of Directors, or whether it is also to be understood to embrace the promulgation of such Regulations as have been framed here, in consequence of specific orders issued by the Directors to the Government of Fort St. George.

3dly. To point out the material delay which must be occasioned in the present case, by previous reference to the Supreme Government, and the consequent increase of expense to the Company by the prolongation of the Commission.

4thly. Whether, under these considerations, the Supreme Government might not think it expedient to wave the necessity of referring the Regulations, above

* "The Governor General in Council hereby approves the abovementioned Regulation. His "Excellency at the same time deems it to be necessary to request the attention of your Lordship "in Council to the orders contained in the 152d paragraph of the letter from the Governor General in Council, dated the 31st December 1799, directing that all Regulations proposed to be "adopted for the internal government of the territories immediately subject to the Presidency "of Fort St. George, be transmitted to the Governor General in Council for his sanction, pre- "vious to their final adoption and promulgation. In conformity to those orders, his Excel- "lency in council requests that your Lordship in Council will not, in future, finally pass any Re- gulation, until it shall have received the approbation of the Supreme Government."

above alluded to, to their previous sanction, even should it be deemed essential, in other instances, to support the general instruction laid down in their letter of the 19th July 1804.

President's Minute, 13 May 1815.

(Signed) H. ELLIOT.

SECRETARY *to* MADRAS GOVERNMENT *to* JUDICIAL COMMISSIONERS,

Dated the 13*th May*, 1815.

To the Commissioners for the Revision of the Judicial System.

GENTLEMEN:

Letter to Judicial Commissioners, 13 May 1815.

Par. 1. IN acknowledging the receipt of your letter of the 28th March last, I am directed by the Right Honourable the Governor in Council to state that, as the Regulations to be prepared by you must undergo the revision of the Sudder Adawlut and of the Government, and as it appears to be prescribed by the Supreme Government that all Regulations are to be sanctioned by their authority previous to enactment, it is the wish of the Governor in Council that the Regulations should be drawn up and submitted through the regular channel, with as little delay as possible.

2. The period which, it is apprehended, must elapse pending the consideration of the Regulations by the departments concerned, will, it is presumed, afford you sufficient time to make material progress in collecting those points of information recommended to your research, in Articles No. 1. and No. 8. in the Resolutions of Government, dated 1st March 1815. The Right Honourable the Governor in Council continues to be of opinion, that it would be advisable a report upon those points should precede the promulgation of the Regulations.

3. You have been informed of the view taken by Government of the expressions used by the Honourable the Court of Directors, in regard to the transfer of the magisterial duties to the Collector, as well as those of the police, and the Governor in Council does not, in your letter now before him, see any new grounds for making an alteration in the mode of proceeding already adopted, for the purpose of carrying into effect the orders of the Honourable Court, in the sense they are understood by the Governor in Council.

4. To what degree magisterial powers may ultimately be transferred from the Judge to the Collector, or be conferred upon him in common with the Judge, will be a matter for future decision: In the mean time, the Right Honourable the Governor in Council is anxious that no time should be lost, in transferring to the Collector the exercise of the whole of the duties of the police.

I have the honour to be, Gentlemen,

Your most obedient servant,

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 13 May, 1815.

SECRETARY *to* MADRAS GOVERNMENT *to* SECRETARY *to* BENGAL GOVERNMENT,

Dated the 13*th May* 1815.

To W. B. Bayley, Esq. Acting Secretary to the Government, Fort William.

SIR:

Letter to Bengal Government, 13 May 1815.

Par. 1. I am directed by the Right Honourable the Governor in Council to request that you will lay before the Honourable the Vice-President in Council the undermentioned copies of papers relating to the revision of the Judicial

Letter to Bengal Government, 13 May 1815.

Judicial system of this presidency, ordered by the Honourable the Court of Directors, viz. 1. Copy of the Honourable Court's letter, bearing date the 29th of April 1814; 2. Copy of a letter from Colonel Thomas Munro, First Commissioner for the revision of the Judicial system, dated the 24th of December 1814; 3. Copy of the Resolutions of Government on that letter, dated the 1st of March 1815; 4. Copy of a letter from the Commissioners for the revision of the Judicial system, dated the 28th March; 5. Copy of a minute recorded by the President on the 13th of May; and 6. Copy of a letter to the Commissioners for the revision of the Judicial system, of the same date.

2d. The object of the Governor in Council, as will be seen from these papers, is to ascertain whether the delay in carrying into effect the orders of the Honourable the Court of Directors, for the transfer of the superintendence of police from the zillah Judge to the Collector, which would arise from the transmission of the Regulation for that purpose to be reviewed by the Supreme Government before being promulgated, might not be avoided, by considering the instructions of the Supreme Government under which regulations are transmitted for their review, as being superseded in the particular case in question by the orders regarding it received from the Court of Directors. I am directed to add, that the same consideration would also apply to the other parts of the Honourable Court's orders, and to the Regulations for giving them effect.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 13th May 1815.

SECRETARY *to* BENGAL GOVERNMENT *to* SECRETARY *to* MADRAS GOVERNMENT,
Dated the 6th June 1815.

To D. Hill, Esq. Secretary to the Government at Fort St. George.

Sir:

Letter from Bengal Government, 6 June 1815.

I am directed by the Honourable the Vice-President in Council to acknowledge the receipt of your letter of the 13th ultimo, with its enclosures.

2. As the Regulations alluded to in the last paragraph of your letter refer exclusively to the introduction of a system founded on the specific and immediate orders of the Honourable the Court of Directors, and as considerable importance appears to be attached by the Right Honourable the Governor in Council to the early promulgation of those Regulations, the Vice-President in Council is entirely of opinion, that inconvenience might be obviated by passing, without delay, the regulations, without referring them to him for his sentiments, as is done in ordinary cases; but in the actual state of this Government, the Vice-President in Council conceives that it will be proper to make a communication on the subject to the Right Honourable the Governor-General, in order that he may have an opportunity of issuing any instructions on the subject which he may judge proper, should his Lordship see grounds to suggest any modification of the course proposed to be pursued in the discharge of the above-mentioned duty. A copy of this letter, together with your dispatch of the 13th ultimo, will be accordingly submitted to the notice of the Right Honourable the Governor-General.

I have the honour to be, Sir,

Your obedient, humble servant,

(Signed) W. B. BAYLEY,
Acting Secretary to Government.

Fort William, the 6th June 1815.

JUDICIAL LETTER *from the* COURT OF DIRECTORS *to the* GOVERNMENT *of* FORT ST. GEORGE, *Dated 20th Dec.* 1815.

Judicial Letter to Madras, 20 Dec. 1815.

Par. 1. Our last letter to you in this department was dated the 16th May 1815.

2. We have received, by the Coldstream, the documents accompanying your Secretary's letter of the 4th January 1815. We have likewise received, by the same conveyance, the proceedings to which you have drawn our attention in the 205th paragraph of your Judicial letter, dated the 1st March 1815, and we are thereby informed of the measures which have been adopted by you, down to that period, for the purpose of carrying into effect the instructions which were conveyed to you in our Judicial dispatches of the 29th April and 4th May 1814.

3. We entirely approve of the tenour of the instructions which were issued by you to Colonel Munro, on his appointment to the office of First Commissioner of internal Administration for the Madras Provinces, and of your having, at his request, furnished him with a copy of the proceedings of the Committees of general Police in 1805, 1806, and 1811.

4. We also acquiesce in the office establishment which you have authorized the First Commissioner to entertain, at an estimated expense of 250 Star Pagodas per mensem: but, in permitting him to draw for personal expenses to the same extent as a Political Resident, in addition to his salary of 10,000 Star Pagodas per annum, you have misconceived our orders of the 4th May. We acquainted you, in our letter of that date, that besides the salary we had allotted to Colonel Munro, he was to be allowed "his travelling and other necessary expenses, the account of which was to be verified in the way prescribed with regard to similar charges under the political residencies." Our intention was, that his additional allowances should be confined to travelling and other necessary expenses, and house-rent when stationed in the districts, and that these disbursements should be verified in the way above pointed out; but we did not mean that Colonel Munro should be entitled to draw on the same scale, for personal expenses, as is permitted to a Political Resident. The allowances, therefore, for which we perceive that you have authorized him, on the construction you have put upon our orders to draw, under the several heads of "house-rent at the presidency, domestic servants, and table-charges," are, from the receipt of this dispatch, to be discontinued.

5. In consideration of the circumstances stated in your President's minute of the 3d January 1815, we confirm your appointment of Mr. George Stratton, second Member of the Commission, with a salary of 12,000 Pagodas per annum, to cover all charges for travelling and other expenses. We are satisfied, also, that in appointing Mr. Stratton to be third Judge of the Sudder Adawlut, the objects of the Commission will be facilitated, while, at the same time, the business of the Sudder court will, by this appointment, be expedited. We cannot consent, however, to this appointment being considered as involving a permanent addition to the number of Judges in that court.

6. The residence of the second Member of the Commission at the Presidency will enable the senior Member to employ much of his time, conformably to the fifth paragraph of his instructions, "in visiting the districts, for the purpose of communicating personally with the local authorities on the system of internal administration, its operation, whether in opposing or promoting the comforts of the people, and the prosperity of the country, and the means by which it may be improved." Far from objecting to the latitude which is given to Colonel Munro, in the fourth and fifth paragraphs of his instructions, we much approve that you have directed his inquiries to the Revenue, as well as to the Judicial branch of the administration, and we have no doubt that you will be equally disposed to attend to his suggestions for the improvement of the one and the other.

Judicial Letter to Madras, 20 Dec. 1815.

7. To enable the Commissioners to prosecute with effect inquiries of such importance, it is requisite that they should be authorized to collect information through every channel that may be within their reach; and we therefore direct, that the Judges and Collectors do facilitate their investigations, not only by unreserved communications, but by directing all their subordinate officers, together with the Potails, &c. of villages, to furnish every detail of information which the Commissioners may, from time to time, think it proper to call for.

8. It is scarcely necessary for us, after this explanation of our sentiments, to add that the provisions of Regulation XXIX of 1802 are not to be suffered to interfere with the researches of the Commissioners; you will, therefore, if it should appear to you necessary, so modify these provisions by a new Regulation, as to guard against any such inconvenience.

9. Having adverted to these preliminary arrangements, we proceed to notice the result of your deliberations, as exhibited in your Judicial Consultations of the 1st of March 1815, on the instructions which we conveyed to you in our Judicial dispatch of the 29th of April 1814.

10. We there find recorded a letter from Colonel Munro to your Chief Secretary, dated the 24th December 1814, in which, after submitting to you an abstract of the contents of our dispatch of the above-mentioned date, and distinguishing in this abstract such of our orders as were, in his conception, positive, from those which were discretional, he suggested the means by which the objects we had in view might be best accomplished. This letter of Colonel Munro is followed by a paper of considerable length, in which, after taking a detailed survey of the same dispatch, according to the order of the paragraphs, you enumerate the measures which you proposed to adopt in pursuance of our instruction, and specify the authorities to which their execution was respectively to be assigned.

11. In perusing these proceedings, we have been gratified to find that, with the exception of one point, which is indeed of considerable importance, there is no material difference between Colonel Munro's understanding and the interpretation given by you of our intentions.

12. The point on which a difference of sentiment has arisen between you and Colonel Munro, regards that part of our dispatch in which we enjoined the transfer of magisterial functions to the Collector, Colonel Munro, thinking that we meant to include in the transfer not merely the superintendance and controul of the police, but the whole duties of Magistrate, and our Governor in Council, on the other hand, conceiving that we intended to confine the transfer to the superintendance and controul of the police establishment.

13. We have no hesitation in declaring our intention to have been, that the transfer should take place in the sense and to the extent supposed by Colonel Munro; and this intention, we still think, was fairly deducible from the tenour of paragraphs 84, 85, 88 to 91, 95 to 97, 102, 104, and 107 of our dispatch.

14. We should not, however, be averse to leave to the zillah Judges a concurrent power to act as Magistrates in conjunction with the Collectors, provided that this can be effected without risk of collision between the two authorities.

15. We cannot concur with your observation, "that it is by no means necessary to the efficiency of the Collector's superintendance of police, that he should be invested with the powers of a Magistrate." On the contrary, we are of opinion that to withhold magisterial power from the Superintendents of Police, would greatly lessen that respect and salutary awe, which their office, as well as character, ought to inspire.

16. It only remains for us, therefore, to direct that our instructions for the transfer of the duties of Magistrate to the Collectors be carried into effect, so as that the zillah Judges may be enabled to give their whole time to the administration of civil justice.

17. With reference to your eighteenth resolution, "that the Commission are to prepare and submit, through the Sudder Adawlut, the draft of a Regulation for

"requiring

Judicial Letter to Madras, 20 Dec. 1815.

" requiring boundary disputes to be settled by the Collector, on the verdict " of a punchayet, &c." we take occasion to remind you that, in paragraphs 167 and 168 of our Revenue dispatch of the 12th April 1815, we approved of your having, on the recommendation of the Board of Revenue, directed a Regulation to be framed,* authorizing the Collector, in the first instance, to hear and determine all disputes respecting the occupying, cultivating, and irrigating of land, which may arise between renters and their Ryots. As it does not appear, however, from your records, that such a Regulation has yet been passed, we embrace this opportunity of desiring that provisions to the foregoing effect may be incorporated in the Regulation to be framed by the Commission, under your eighteenth resolution, above referred to.

18. We have also, in the 169th and 170th paragraphs of the same dispatch, called your attention to a proposition which had been submitted to your Board of Revenue by the late Collector of the southern division of Arcot, for empowering Collectors to hear and determine disputes between Zemindars or Renters, and the Ryots, respecting revenue collections. We intended, as you will observe from those paragraphs, to have forwarded to you, by the same conveyance, a copy of our Judicial dispatch to Bengal of the 9th November 1814, in which we entered into the consideration of the abovementioned principle, subject to the limitations therein expressed: and as we were informed you had desired to be furnished with the sentiments of that Government, and the subordinate Judicial and Revenue authorities, upon the expediency of its application to the Bengal territories, we now furnish you with a copy of the dispatch in question, and direct, should you not feel prepared to adopt that principle, that you will take the earliest opportunity of collecting the opinions of the Sudder Dewanny Adawlut, the Provincial and Zillah Courts, the Board of Revenue, the Collectors, and particularly the Commissioners, on the subject; and that you transmit their answers to such reference as soon as practicable. It is not our intention to give to Collectors a power of deciding upon complaints which may be preferred either against themselves or the native officers of Revenue, subject to them respectively.

19. We are fully persuaded, that no part of the conduct of the members of the Special Commission will have any tendency, to use your own language, " to unsettle the minds of the people with regard to the established system of " internal administration, and destroy their confidence in its permanence ;" but that they will be influenced alike by duty and attachment to our service, " to strengthen and uphold the legitimate influence of all the constituted " authorities of the Government."

20. Since writing the preceding paragraphs, we have received, by the Sphinx, the letter of your Secretary in the Judicial department, dated the 5th July last, with the papers therein referred to.

21. We entirely concur with the Commissioners, that " the shortest and " most efficacious way of preventing the minds of the people from being un- " settled, with regard to the permanency of the present system, would be to " publish, with as little delay as possible, all the Regulations required under " the proposed changes, which most immediately affect any considerable body " of the people, and to circulate them, so as to reach the districts as soon as " the Commission." They add, that " this, by showing at once to the peo- " ple the whole extent of the proposed changes, would satisfy them that no " material innovation was meditated in the existing system, and would remove " every doubt regarding its permanency, and it would also enable the Com- " mission to convince them that the modifications introduced were not intended " to weaken or destroy, but to strengthen and improve it, by bringing its ad- " vantages nearer to them." We fear, however, that the early promulgation of the Regulations, at least as far as they concern the village courts and the village police, will be defeated, in consequence of the investigations which you have required to be previously made, respecting the points specified in the first and eighth articles in your minute of Consultation, dated the 1st March 1815.

* Revenue Consultations, 1st February 1814.

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22. We must own that it appears to us that it would have been a much more preferable course, to have passed and circulated the Regulations without delay, and to have left those matters of detail for subsequent inquiry and adjustment on the spot, as was proposed by the Commissioners in their letter of the 28th March.

23. The arguments adduced by the Commissioners in that letter are, indeed, so much in unison with our own sentiments upon the main point then under discussion, and they have, with so much accuracy and ability, defined the course which, in their opinion, ought to be pursued for the purpose of giving early effect to our instructions, that we cannot too strongly express our satisfaction at the additional evidence which this document affords of their peculiar fitness for the discharge of the important trust that has been committed to them. Under this impression, and with an increased conviction of the benefits that must eventually result to our native subjects and to our general interests, from the investigations of the Commissioners, we direct that the course which has been pointed out by them in their letter, may be adopted by you, and that the Sudder Adawlut, the Board of Revenue, and all the subordinate public functionaries in the provinces under your authority, do furnish every information in their power, respectively, and do give every facility to the Commissioners, in the prosecution of a service which we have so much reason to think will be successfully accomplished, under that full support which it is the duty of all our servants to afford, and which we doubt not you will enforce by your own example.

24. The instructions that were sent to your presidency by the Supreme Government, in the years 1799 and 1804, requiring you, previously to passing any Regulation for the internal administration of the territories subject to your authority, to submit the same to them for their sanction, were very properly considered by your President as not applicable to a case, in which the authorities at home had pronounced a deliberate opinion and had prescribed a course of proceeding. We shall, therefore, much regret the reference you made upon the subject to Bengal, if it shall prove to have unnecessarily delayed the proceedings of the Commissioners, which we must observe are not, by the latest accounts we have received from you, in so advanced a state of progress as we should have expected, when we advert to the period that has elapsed since it was instituted.

We are, &c.

(Signed) C. GRANT,
T. REID,
&c. &c. &c.

London, 20 Dec. 1815.

REPORT *of* SUDDER ADAWLUT,

Dated the 21st December 1815.

Report of Sudder Adawlut, 21 Dec. 1815.

READ the following letter from the Register to the Court of Sudder Adawlut and Foujdarry Adawlut.

To the Secretary to Government in the Judicial Department.

SIR:

I am directed by the Court of Sudder Adawlut to transmit to you, for the purpose of being laid before the Right Honourable the Governor in Council, the accompanying extract from the proceedings of the Court, under date the 14th instant, together with a minute thereon, recorded by the Third Judge on this day, and the drafts of Regulations to which they refer.

I have the honour to be, &c.

W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
21st December 1815.

Extract from the Proceedings of the Sudder Adawlut, under date the 14th December 1815.

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The Court proceed to record the observations which have occurred to them, after an attentive perusal of the drafts of Regulations transmitted with the letter from the Commissioners of internal Administration, dated the 15th July last.

In these observations the Court have endeavoured to shew wherein the principle of the proposed enactments appears to be objectionable, and to point out in what respect they consider the provisions made by the several proposed clauses to be inadequate to the purposes for which they are intended. Upon these points the remarks of the Court will be found to extend to great length; but they trust not greater than the importance of the subject demands.

The objections which have occurred to the Court, in respect to the wording of the proposed Regulations, are numerous, and to specify them all would extend these proceedings to a tedious length; but as the Court have prepared new drafts, with the modifications and additions which have appeared to them requisite to attain the object in view, it is the less necessary to enter into a minute consideration of the wording of those proposed by the commission.

Title. A Regulation for authorizing heads of villages, as village Moonsiffs, to hear and decide civil suits for sums of money, and for real and personal property to a limited amount, throughout the territories subject to the Government of Fort St. George.

The Regulation does not merely authorize the heads of villages to hear and decide suits of a limited amount; it also empowers them to receive complaints, and in proceeding upon such complaints to exercise a compulsory jurisdiction. The title is therefore defective, in as much as it does not state that the Regulation defines the jurisdiction to be exercised by the heads of the villages, as Moonsiffs. The title is also objectionable, in making a distinction between money and personal property.

Preamble. In order to diminish the expense and to facilitate the speedy distribution of justice in petty suits, to enable the inhabitants to obtain it without being subjected to the inconvenience of a long absence from their homes, to restore to the heads of villages and Curnums the consideration which they formerly derived from the decision of such suits, and to relieve the Zillah courts from the pressure of business, the following rules have been enacted.

The preamble enumerates the objects which the Regulation has in view, and it specifies as one of those objects, the restoration to heads of villages and Curnums of the consideration which they formerly derived from deciding petty suits. The Court would suggest the omission of this clause of the preamble; first, because it may be doubted whether heads of villages and Curnums ever exercised the judicial powers here supposed, except in an arbitrary and unauthorized manner; and secondly, because if they were ever vested with these powers, either by the usages of the country or by an act of the ruling authority, the restoration of the consequence which they might have derived from the exercise of such powers can at best be considered only as a secondary object of the Regulation. Its primary objects, which alone it is necessary to specify, are to lesson the business of the Zillah courts, to diminish the expense of litigation in petty suits, and to promote the speedy adjustment of such suits, without subjecting individuals to the inconvenience attending a long absence from their homes.

Section 3. First. In villages, whether permanently settled, rented, or in the hands of Government, where there may be more than one head man, coming under the denomination of Potail, Reddy, Renter, or any other designation, the person who collects the revenue, and under whose authority the village servants act, shall be considered as the head of the village. No person shall act as the head of the village who does not generally reside in it. Where there is but one resident renter of a village, he shall be considered as the head of the village: where the renter is not a resident, the person who rents or manages the village under him shall be considered as the head of the village.

This section is intended to describe heads of villages; and it is undoubtedly necessary that some rules should be laid down for ascertaining what particular inhabitant of a village shall be entitled to exercise the powers conferred by this Regulation. The obvious effect of this section is to constitute as head of the village, at least so far as the office of Moonsiff is concerned, the renter, when he shall be a resident, and in default of him, the person who collects the rent, whether on behalf of the renter, or of the Government. The mention of the Potail and the Reddy is therefore superfluous; because these persons, where they may be found to exist, are not to exercise the powers of village Moonsiff, by virtue of their holding the situation of Potail and Reddy, but in consequence of their being the renters of the village, or collectors of the rent or revenue. The provisions of this section are, therefore,

directly

Second. Where, from the names of two or more persons being introduced in the same pottah, as heads or renters of the village, or from any other cause, doubts may arise as to whom the office of head of the village belongs, the Collector shall select one person, and give him a pottah to act as the head of the village.

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directly at variance with one of the professed objects of the Regulation, viz. "to restore to the heads of villages "and Curnums the consideration which they formerly de- "rived" from deciding petty suits; and they involve also a deviation, and a most important deviation, from the plan contemplated by the Court of Directors. The Honourable Court, conceiving that every village contains a head man, acknowledged as such under the title of Potail or other designation of a similar nature, propose that such head man shall be vested with judicial powers; but this section goes to vest the judicial powers in question in a mere hireling, whatever may be his cast or religion, and whatever may be the prevailing cast of the village. Under the operation of this section, a Moosulman or a Suddra, by being the resident renter, may become the Moonsiff of a village, the inhabitants of which are Bramins. The Court have, however, copied the original section in their draft; but under the circumstances above stated, they beg leave to recommend that the Commission may be instructed to reconsider the subject.

Section 4. Village Moonsiffs shall not be required to take any official oath. They shall be furnished with a copy of this Regulation for their guidance, to be lodged with the village Curnum.

Oaths have usually been considered necessary guards of the judicial character; and it may be reasonably doubted, whether they can safely be dispensed with in the case of a village Judge. Of the latter part of the section, the following modification would better convey the intended meaning. "They shall be guided in their proceedings by this Regulation, a "copy of which shall be lodged with, and preserved by each village Curnum, "for the information of the Moonsiffs." But perhaps it would be better to omit the section in this place altogether, and substitute at the end a section, making it the duty of the Curnum to preserve the copy of the Regulation. That the Moonsiffs shall be guided by the Regulation is provided in almost every section, and a general enactment to that effect appears unnecessary; but a clause, subjecting Moonsiffs who shall act contrary to the Regulation to a penalty of some sort is evidently wanting.

Section 5. They shall not be liable to be summoned, either by the district Moonsiff or Zillah Court, to answer for their proceedings as village Moonsiffs.

The exemption provided by this section, combined with that provided by the section immediately preceding, would appear to render the authority of a village Moonsiff too independent of control. His conscience is not bound by an oath, and he is not liable to be called to account for his conduct. What, then, shall limit the exercise of the power confided to him, or what security is there for the equity of his decision?

The causes which may render it necessary to establish the lowest of the native judicatories in a state of such complete exemption from all superintendence and control are not before the Court; nor do they appear to have been under the contemplation of the Honourable Court of Directors, who, in the fifty-eighth and fifty-ninth paragraphs of their letter, dated the 29th April 1814, treat of the native officers as under a vigilant and active superintendence and control exercised by the British Government, and advert to a constant and pervading exercise of the power of superintendence, as the sphere of action in which the Company's European servants can be most beneficially employed.

The difficulty of providing for the exercise of this superintendence and control, in a way which should not paralyze and render inefficient the operation of these lower judicatories, has indeed appeared to be a serious obstacle to the introduction of the plan of judicature devised by the Honourable Court. Against making any provision for the exercise of the supposed superintendence and control, the Commission may have assigned reasons which may be satisfactory to the Right Honourable the Governor in Council; but the provisions, viewed abstractedly, appear to the Court calculated to secure impunity to abuse of power.

At all events, this section requires amendment, in as much as Section 36 renders village Moonsiffs liable to prosecution in the Zillah court for acts of corruption.

It

Section 7. They shall be empowered to hear and determine, of their own authority, as Moonsifs, all suits, whether for real or personal property not exceeding the value of ten Arcot rupees, for lands exempted from the payments of revenue to Government the annual produce of which shall not exceed one Arcot rupee, and for lands paying revenue to Government the annual produce of which shall not exceed ten Arcot rupees.

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It may be observed, that to commence a section with the pronoun "they" is objectionable: such a commencement must render necessary a reference to another section to ascertain of who "they" is the representative. But this section has further been rendered obscure by an attempt to simplify the language; and it might be inferred, from the wording of it, that lands, whether exempt from or liable to the payment of revenue to Government, are not considered to be either real or personal property.

The section does not describe correctly the nature of the property which is intended to be made subject to the cognizance of the village Moonsiff. The hereditary or acquired real property of villagers paying a land-rent to a Zemindar is not described in it. These persons do not pay revenue to Government; but they cannot be considered as holding lands exempted from the payment of revenue to Government, for the persons who receive the rents from the holders of these lands, out of the rents so received pay the revenue of Government. Neither does the description contained in the section apply to lands charged with a rent to an individual, who is excused from paying a revenue to Government on account of such rent. The terms used in this section are those which, in the Bengal Code, and in the Regulations passed by this Government in the year 1802, are applied to the property of persons collecting rents from lands of considerable extent, and paying a certain considerable revenue to Government; but those terms are quite inapplicable to the property of persons paying rents directly from the lands. The two properties are perfectly distinct, and should be distinctly provided for in the Regulations. The property of the person, by whatever title designated, who pays a large revenue to Government, can seldom be the subject of a suit before the village Moonsiff; but the property of the individuals who pay their rents to this person must be the subject of daily litigation in the judicatories established by this Regulation: and yet the section is wholly without a provision for suits of this nature.

The same observations apply to Clause first, Section 9, Regulation VII of 1809, which was adopted from Regulation XLIX of 1803, enacted by the Supreme Government.

The value of these two descriptions of property ought to be estimated upon different principles.

For estimating the value of the property of a Zemindar paying revenue to Government, and of an individual exempted from paying revenue to Government, rules are prescribed in Section 3, Regulation III of 1802; but for estimating the value of property belonging to individuals hereditarily occupying and cultivating the soil, no provision is made in the Regulations: and it has fallen within the observation of the Court, that suits for property of this nature have been regarded as suits for malguzarry land, and the value of the land has been estimated accordingly.

Whether the estimates framed according to this rule may bear the same proportion to the real value of the property, as is intended in the case of a person receiving numerous rents from extensive lands, and paying a considerable revenue to Government, the Court have not information before them to enable them to determine.

It would appear, by a note in the 103d page of Harington's Analysis of the Regulations enacted by the Bengal Government, that it was intended, when the Regulations were published in Bengal in the year 1793, that landed property should be estimated at ten years' purchase; but by the Regulations which were published in 1814, it would appear that the value of land must have considerably increased under the operation of a settled form of Government, land assessed for the public revenue being ordered to be estimated at three times its annual produce, and lands held exempt from the payment of the public revenue to Government being directed to be valued at eighteen times the amount of the computed annual produce.

It

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It is not intended to recommend the application of these rules without qualification, in the territories under this presidency: but as they evince that landed property has considerably increased in value in Bengal, under a system of executive and judicial administration, which has been for a considerable time established in the territories subject to this presidency, it appears reasonable to conclude that similar effects may have been produced, in a proportionate degree, on the landed interest under this presidency; but whether to the extent of rendering it expedient to alter, by a Regulation, the standard of value which has been assumed, for the purpose of determining the relative jurisdictions of the several courts, cannot be affirmed. The circumstance is merely adverted to, as manifesting the beneficial operation of this system of revenue and judicature, and as shewing that the value of landed property cannot be regarded as fixed, but that, like all other property, its value will vary and improve with the circumstances of society.

With a view to determine the correct wording of this section, it is necessary to consider the nature of the properties which may become the subjects of litigation before a village Moonsiff. If the Ceded Districts be taken as the example, it will perhaps be held that the cultivator generally pays his rent to the Potail on account of Government; in other words, that he pays the public revenue, and therefore that his lands are malguzarry lands: but if the observation be turned to other districts, where there are large zemindarries, the same description of people will be found enjoying the same privileges, reserving to themselves nearly the same proportion of the gross produce, paying to the Potail or head of the village, or to some person intrusted with the collection on account of the Zemindar, the same proportion, or nearly the same proportion, as the inhabitants of the Ceded Districts pay to the heads of their villages on account of Government. The relative situation of this description of persons, with regard to the Government, may be held to be different in the different districts; but their relative situation with regard to the soil will be alike in all, with the trifling exception occasioned by either the Government in the one instance, or the individual, under whatever appellation representing it, in the other, relinquishing a part of the rent in favour of the cultivator.

It follows then, that to make the provision generally applicable, the term "malguzarry" should be construed to include all lands held subject to the payment of a rent, whether on account of Government or of any individual holding the right of Government. But this would occasion another difficulty; for as the Regulations of 1802 were framed with a view to the general introduction of the permanent settlement of the revenue, the term malguzarry is understood to apply to the superior rights of a Zemindar or other person holding the right of Government. To apply it, therefore, to the property of the hereditary tenant and cultivator of the soil, would be to designate opposite rights by the same appellation, and consequently to produce confusion; it is, therefore, necessary to use some other term, which shall designate only the property intended.

With regard to the term "lakheraje," or the phrase used by the Commission, "exempted from the payment of Government," its applicability to any property in the territories subject to the Government of Fort St. George may be questioned. There may, perhaps, be lands of this description; but, generally speaking, grants by the ruling authority are assignments of its revenue from certain lands, not grants of the lands themselves. The proprietary right in those lands will be found very generally to be vested in, and exercised by the resident inhabitants. Under the circumstances already noticed, of the expected introduction of the permanent settlement of the revenue, the term may be considered as intended to designate the rights of an individual receiving rents, but paying no revenue out of such rents to Government; but if this be its intended acceptation, it cannot be applied also to the rights of persons cultivating their lands on their own account, and paying rent to no one. These must be distinct rights. It is to be supposed, that the rights of the individual receiving rents, but not paying revenue to Government, will generally be the subjects of litigation in a Zillah court, and the terms *lakheraje* and *malguzarry*, explained as meaning respectively "exempt from the payment of revenue to "Government, and subject to the payment of revenue to Government," may be

be considered as sufficiently defining the property of an individual, in the one case, receiving rents and not paying revenue to Government, and in the other, receiving rents and paying the public revenue. But in defining the property which may be the subject of daily litigation before a village moonsiff it is necessary to be more particular.

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These considerations are founded on the understood intention of the legislature, that the rights of which the several classes of inhabitants are found to be possessed should not be infringed, but on the contrary, that they should be respected and preserved; and that the proprietary right of the soil, declared by Section 2 of Regulation XXV of 1802, "to become vested in the Zemin- "dars or other proprietors of land, and in their heirs and lawful successors for "ever," is no other proprietary right than that which was exercised by the Government itself, tempered and restricted by the rights and usages of the inhabitants. To what purpose, indeed, it might be asked, would the laws of the natives, regarding succession, inheritance, &c. be guaranteed to them, if the value of the property in succession could be tacitly undermined and destroyed?

It is, indeed, of great importance, that the jurisdiction intended to be vested in village Moonsiffs should be correctly defined; that they should not be permitted to assume a constructive jurisdiction over matters not intended to be submitted to them; and that the inhabitants should know the limits of their authority, and the means of resisting any illegal assumption of power. It would appear necessary to determine whether the produce of lands and privileges allotted for the support of hereditary offices, and religious and charitable establishments, shall be the subject of litigation before the village Moonsiffs; yet no provision in the Regulation is applicable to lands of this description. They do not pay revenue to Government, in the literal meaning of the term; but as the Government revenue derived from them is assigned for the remuneration of public services or for public purposes, they cannot be regarded as exempt from the payment of revenue to Government. Indeed, in some of the districts the produce of the lands was resumed, and stipend was paid to the village officers, and the expenses of the religious and charitable establishments were defrayed from the public treasury.

The Court have regarded these lands as service lands, and have classed them under the general term *malguzarry*, applied to lands assessed for the public revenue; but it would seem desirable that in a Regulation intended for the guidance of village Moonsiffs, these lands should be either distinctly subjected to, or excluded from their cognizance. The Court would give the preference to their exclusion, being of opinion that the control of these assignments of the public revenue should not be withdrawn from the European administration.

These assigned lands are termed *mauniams*, and by the same title are designated lands enjoyed by the owners of villages, the possession of which is regarded by the inhabitants as a testimony of ownership.

It would appear requisite to determine whether these latter constitute a private property, or whether they are service lands assigned to the head inhabitants, in requital of certain services exacted from them, and consequently the property of the person discharging the service. The Regulation contains no specific provision on this point; and if the Commission should not have considered the subject, it may be desirable that their attention should be called to it.

If lands and privileges attached to public offices, as above described, be excluded from the jurisdiction of village Moonsiffs, and declared subject to the cognizance of the European tribunals only, the adjudication of claims respecting them may be specially provided for in any Regulation which the Commission may recommend. The Commission may have considered the subject, and have given satisfactory reasons for not particularly distinguishing the several kinds of property above described: in this case, it will be necessary to modify the section which the Court have framed.

Section 8. They shall not try any suit, in which the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it; unless the plaintiff can prove that he preferred his claim to a competent authority, or that the defendant had admitted the truth of it within that period.

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The provision made by this section may, perhaps, be requisite, if the jurisdiction of the Moonsiffs is to be extended to real property; but it must be observed, that the effect of a like provision, in regard to the courts established by the Regulations of 1802, was to burden them with twelve years arrears of business, which had accumulated under the defective institution of the native Governments. The measure may be regarded as a material error. It could not have been deemed unjust, had all the old causes been referred for decision to the institutions existing when those causes originated: the courts would then have been left free to get through the current business as it might arise. To give to the village Moonsiffs a retrospective jurisdiction, excepting in suits for landed property, may have the effect of clogging their proceedings, and retarding the dispatch of current business in a very inconvenient degree. In Bengal it appears to have been considered expedient to limit the jurisdiction of district Moonsiffs to suits for personal property, the cause of action in which may have arisen within the period of one year previously to the institution of the suit. The Court suggest, that the right of instituting suits for personal property before village Moonsiffs be limited to two years instead of one year, within which period pecuniary transactions can hardly be said to be closed.

All suits for personal property, in which the cause of action may have arisen above two years, but within twelve years previous to preferring the claim, may be declared cognizable by the district Moonsiffs, and by him referable to a punchayet.

But if it be deemed expedient to adopt the proposed limitation, the wording of the clause may at least be rendered more clear and explicit; and the most admissible plea for not having instituted a suit within twelve years, namely, the minority of the party, which has been altogether omitted by the Commission, may with strict justice be inserted.

The Court have prepared drafts of clauses corresponding with the foregoing suggestions, respectively; and they propose that, in either case, the provision shall form a clause of Section 7, as it is, in fact, a part of the definition of the village Moonsiffs' jurisdiction.

Section 10. Plaintiffs and defendants shall be allowed to employ Vakeels before the village Moonsiff; but no person shall be allowed to act as a Vakeel before any village Moonsiff, unless he be a relative, servant, or dependant of the person for whom he may be appointed to act, and unless he be provided with a vakalut-namah.

The meaning of this section is not clearly expressed. The first member of the sentence declares, generally, plaintiffs and defendants shall be allowed to employ Vakeels before the village Moonsiff; "but" (it proceeds, in the language of Section 15, Regulation XXIII of 1814 of the Bengal Code), "no person shall be allowed to act as a "Vakeel before any (village) Moonsiff, unless he be a "relative, servant, or dependant of the person for whom "he may be appointed to act, and," it further adds, "unless he be provided "with a vakalut-namah."

It would seem more natural to describe the persons who may be employed as Vakeels by plaintiffs and defendants, and the powers required to be furnished to them, and to be by them exhibited, in order to enable the village Moonsiff to admit them.

It may be right, also, to strengthen the provision by a prohibition to the Moonsiffs against permitting any person to act before them without producing a vakalut-namah.

Section 12. First. In hearing and deciding all suits, the village Moonsiffs to cause the Curnum of the village to attend as assessor, in order to assist him with his advice, and to write the proceedings; but he shall decide by his own opinion, whether it agree or not with that of the Curnum.

The three several clauses of this section are novel.

The intent of the first clause is understood to be to give to the Moonsiff the command of the Curnum's services in writing his proceedings, and the benefit of the Curnum's advice towards forming his judgment, leaving it to the Moonsiff, however, to follow or reject that advice as he may deem proper. It does not appear to be intended that the Curnum's advice should be recorded; and if it be not recorded, it will form no check whatever upon the Moonsiff: but it does not appear that any such check was

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was intended to be established. If it was the object of the clause to give assistance to the Moonsiff, leaving him to avail himself of it at his discretion, the intention may be more clearly expressed.

The clause is defective, in not providing the means of enforcing the attendance of the Curnum, if he should be disinclined to attend: and as the Court are unable to say, whether the duties of the Curnum in the Revenue department will admit of his giving a regular attendance at the Judicial proceedings of the village Moonsiff, they are unprepared to supply the defect.

Second. Should the Curnum, from sickness or absence, be unable to attend at the time fixed for the trial, the village Moonsiff shall defer the trial until he can attend.

Third. But whenever there shall be a deputy acting for the Curnum in the village, during his sickness or absence, the village Moonsiff may employ the deputy as assessor, and try the suit without waiting for the attendance of the Curnum.

The result of these two clauses is, that whoever holds the office of Curnum for the time being shall discharge the duties of assessor, and that the Moonsiff shall not be competent to perform the functions of his office without the presence of an assessor.

The Court have endeavoured to word the section more clearly; but the practicability of the Curnum's giving their attendance on the village Moonsif, in the manner proposed, remains a question on which it belongs to another department to offer an opinion.

Section 13. The village Moonsiff shall send summonses to parties and witnesses by the Totties, Talliars, and other village servants, but the summonses shall be verbal.

The Court object to a verbal summons, as not ensuring the communication to the party summoned of such information as may enable him to come before the Moonsiff prepared to answer the claim preferred against him. Such summons, it is probable, will be carelessly delivered by an ignorant village servant. It is doubtful whether a ready obedience can be expected to such a mandate; and in case of disobedience, the proof of the due delivery of the summons will be difficult and unsatisfactory. But supposing the defendant to obey, his attendance will generally be useless, from his ignorance of the cause for which he is summoned. It may be worse than useless, by interrupting the progress of his labours for the subsistence of his family.

The Court are not aware of any sufficient reason for arming a Moonsiff with such compulsive authority, nor for enabling a creditor, who may have taken his own time in resorting to the public authorities for the enforcement of his claims, to harass his debtor, by compelling him instantly to appear before the Moonsiff, whatever inconvenience may result to him from the sudden abandonment of his occupation.

The Court would propose a written summons, drawn up and certified by the Curnum, containing the names of the parties, and a short statement of the amount or nature of the plaintiff's demand, and requiring the defendant to appear in person, or by Vakeel, and to deliver an answer to the plaint on or before a certain day. Such a summons would prepare the defendant to meet the charge, and would enable him to attend on the Moonsiff with the least inconvenience. It might be served by the village servants.

Section 15. The plaintiff shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total sum of money or amount of personal or real property claimed, and all material circumstances which may elucidate the transaction.

This section is taken from Section 17, Regulation XXIII. A. D. 1814, of the Bengal Code. The word "plaintiff" is substituted for the word "plaint," perhaps by an error on the part of the copyist; and the last line of the printed section is omitted, probably as being considered redundant.

Section 16 shows that it is intended that a written plaint should be received; and the Court therefore recommend, that the original reading be restored. But the sense has been obscured by the insertion before the word property of the words "of real," which leave real property to be designated by its amount instead of its value.

Section 16. After the plaint is received, the Defendant shall be summoned without delay If he abscond, or refuse to attend in person or by Vakeel, and his refusal is prov-

The immediate attendance of the defendant, on receiving a verbal summons as here provided, is calculated to introduce a precipitancy in judicial proceedings, which seems to the Court to be highly objectionable; and the proposal

ed to the satisfaction of the village Moonsiff, the suit shall be tried by the village Moonsiff, on the vouchers and evidence of the plaintiff.

proposal to punish a refusal to attend upon a notice, in its nature indefinite and difficult of proof, may be considered a severity uncalled for by the occasion, and therefore unwarrantable.

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In a subsequent section it is provided, that a period, not exceeding five days, shall be granted to a defendant to prepare his answer to the plaint, if he shall request such delay. There can be little doubt that it will be requested in every instance. As the verbal summons, which it is proposed to send, can hardly be more than a notice that the Moonsiff requires the attendance of the party, it is to be expected that the defendant, who will have to learn on his appearance before the Moonsiff what may be the demand against him, will gladly avail himself of every indulgence to which he may be entitled. A written summons, communicating the nature of the demand, might in many cases enable the defendant to come prepared to answer the plaint. But it is not to be pronounced, that even with this precaution, it would not be reasonable, in most cases, to grant a further period for the preparation of the answer.

Section 17. If the defendant attend, the village Moonsiff shall advise the parties to settle the matter amicably. If the plaintiff be satisfied by the defendant, the village Moonsiff shall take from him a razeenamah, stating in what manner the defendant has satisfied him, signed by the parties. The razeenamah shall be attested by the village Moonsiff and Curnum.

The reason for the Moonsiff taking the razeenamah and forwarding it to the district Moonsiff, as provided by a subsequent section, is not obvious. This provision will have the effect of burthening the district Moonsiff with records not his own. The razeenamah might be more useful in the hands of the defendant: It might be produced in answer to all future claims on the same account. A provision to this effect may be easily added to the section.

Section 18. First. If the parties object to an amicable adjustment, the plaint shall be read over to the defendant in the presence of the plaintiff, and his answer shall be taken in writing, without delay, unless the defendant request a delay, in which case a period not exceeding five days shall be granted; but if the defendant refuse to answer the plaint, the village Moonsiff shall proceed in the trial, as directed in Section 16.

In the first clause the language would appear to be misplaced, for it is not to be supposed that a party will agree to the adjustment of a claim until the claim has been stated to him. The words, "The plaint shall be read over to "the defendant," belong more properly to the beginning of Section 17.

Third. If the parties are willing to dispense with the examination of witnesses, the village Moonsiff shall give his decision on due consideration of the plaint and answer, and any vouchers which may be produced; or if either party is willing to let the cause be settled by the oath of the other, the village Moonsiff shall give his decision accordingly.

With regard to the third clause, it must be remarked that the wording of the concluding passage is obscure. It may be intended to conform to Section 6 of Regulation III, A. D. 1802: but that section prescribes that the Court shall examine the truth of the complaint or "claim "by the oaths of the parties, if they shall mutually consent to that mode of examination." It does not appear to be intended, by the section here quoted, that the question shall be determined by the oath of one party; nor is it prescribed by the proposed clause, that judgment shall be declared according to the statement of the party who may be examined upon oath with the consent of the opposite party. Such intention, indeed, might be inferred from the use of the word "accordingly;" but in legal provisions nothing should be left to inference that will admit of positive definition: and if such should be the intention of the proposed Regulation, it will be introducing a new principle into the code, for the section of the existing regulations, which permits this mode of examination, does not allow the substitution of it for any other mode of examining the truth of the complaint or claim, but adds, "and of the witnesses "who may be produced by them, if they have any witnesses to produce."

It is the duty of the Court to point out this innovation, whether it may ultimately be deemed proper or not to adopt it. It certainly is worthy of consideration, whether the passing of decisions on the oath of a party unsupported by witness, will not tend to encourage perjury; and whether the absence of contradiction will not render a party bold in falsehood. There appears but too much cause in the frailty of human nature to apprehend this consequence. The

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The provision in the existing regulations is not liable to this objection, and is accordingly recommended.

Section 19. First. Should witnesses be required, each party shall give in a list of his own, who shall, without delay be summoned and examined in the presence of the parties; but it shall not be necessary to take down their evidence in writing, unless at the special desire of of either of the parties.

The verbal summons to the witnesses proposed in the first clause requiring instantaneous attendance on the Moonsiff is liable to the same objections as were made to this mode of summoning a party. There is no reason why a witness should not be allowed to provide against the inconvenience of being called and detained from his proper occupation.

The provision against taking down the " evidence in writing, unless at the " special desire of either of the parties," is less objectionable than unnecessary, for there is little room to expect that this special desire will be omitted, the ordinary practice of the natives being to proceed on written declarations.

Third. The village Moonsiff shall not examine more than four witnesses on each side, when the evidence is required to be taken in writing, except in particular cases where he may deem further evidence necessary. The village Moonsiff may cause an oath to be administered to any witness, when he thinks he is not giving his evidence correctly.

The third clause of this section is liable to several objections. It never can be just that the Judge should be permitted to limit the quantum of proofs which a suitor may bring forward in support of his claim, or a defendant may adduce against it; and such a power vested in the hands of any village Judge might lead to the grossest abuses. It would enable the corrupt Moonsiff to exclude from his proceedings the most valuable evidence in the suits brought before him for decision, and to pass the most unjust decrees with the appearance of impartiality. It would be better to provide that the reasonable expense of a witness should be paid previously to the taking of his deposition, than " That the number on each side should be limited to four, except when " the Moonsiff may think further evidence necessary." It would appear, also, that although it is intended that the depositions of witnesses shall not be ordinarily taken under the solemn sanction of an oath, the Moonsiff may, at his discretion, cause an oath to be administered to a witness whom he may consider to be giving incorrect evidence. This would be, in effect, to lay a snare for the unwary, and to entrap a witness into perjury. It would be better, in all cases, to administer the oath, and to let the witness see the danger he would run if detected in falsehood.

Section 21. First. If the plaintiff, after having made his complaint, shall not attend on the day fixed for the trial, his suit shall be dismissed, and shall not again be received, unless sufficient cause shall be shewn for his not attending.

The first clause is objectionable, if the word " received " be correctly written, and not intended for " revived." For an involuntary absence, a plaintiff would be harshly used in being made to lose the benefit of his number on the file; but for an absence which did not admit of an entirely satisfactory explanation, the absolute rejection of the suit appears much too severe a penalty. The reasoning which would dictate such a penalty would seem to require that judgment should be given against a defendant for being absent. It would be less harsh to subject the absent plaintiff to a fine of one anna in the rupee on the amount of his claim, and allow him to commence a new suit: nor should this penalty be inflicted, unless the defendant be in attendance on the court, for he only is injured by the non-attendance of the plaintiff.

Section 22. The district Moonsiff may order the suit dismissed to be tried by the village Moonsiff, or he may try it himself; and he may order the suit tried *ex parte* to be tried anew; or he may try it himself, provided the plaintiff or the defendant shall shew to him satisfactory cause for not having appeared before the village Moonsiff by the prescribed time.

This section is obviously misplaced, as it provides for powers and authority not to be exercised by the village Moonsiff; and it is defective, as it does not provide that the village Moonsiff shall obey the orders which he may receive from the district Moonsiff.

Section 23. Any witness who shall neglect to attend, after being duly summoned, or who when in attendance shall be guilty of disrespect to the village Moonsiff, may be fined by him in a sum not exceeding half a rupee, to be commuted at discre-

This section, taken from Section 31, Regulation XXIII. of 1814 of the Bengal Code, differs from its original in some most important provisions. Like the Bengal Regulation, it requires the party to make oath that the evidence of the person neglecting to attend in obedience to the summons is material to the issue of the cause; but it vests in

tion for twenty-four hours confinement in the village choultry. Any witness attending who shall refuse to give his testimony shall be fined, at the discretion of the village Moonsiff, in a sum not exceeding five Arcot rupees, to be levied, if necessary, by the attachment and sale of his property, as is prescribed in Section 38 of this Regulation; provided, however, that it shall satisfactorily appear by the oath of the party requiring his evidence, that the testimony of such person is material to the cause.

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in the Moonsiff a power of levying the fines which he may impose, which power, under the Bengal Regulation and all former enactments in the Madras Judicial Code, can be exercised only through the intervention of the Zillah Judge: and it is proposed that this power shall be exercised by the village Moonsiff, on an alleged default to attend upon a verbal summons. The Court are of opinion, that this provision will be open to great abuse. If, however, a written summons be considered unnecessary, the verbal summons should admit of the witness making provision against the inconvenience of being called from home suddenly. Instantaneous attendance need not be insisted upon.

It may further be remarked, that there does not appear to be any reason for making a distinction between the case of a witness avoiding to attend, and one refusing to give evidence when in attendance.

Section 24. First. Should any persons, whose evidence is necessary in the suit, be absent, the village Moonsiff shall send a list of them, either to the village Moonsiff in whose village they may be, or to the district Moonsiff, if within his limits, and the village Moonsiff, or district Moonsiff, as the case may be, shall cause them to attend.

It does not clearly appear to what description of absent persons this provision is intended to apply. If it be intended to apply to residents in the jurisdiction of other village Moonsiffs, the inconvenience which must result to individuals from exacting their instantaneous attendance is obvious. If it be intended to apply to persons casually absent from their village on purposes of traffick, &c. it must be remarked, that to recal them prematurely to give evidence in a petty suit, would be to inflict a certain evil on them, without ensuring a certain benefit to any person, farther than their evidence, which might be obtained on their return in the due course of their avocations.

Second. Should the persons whose evidence is required reside beyond the limits of the district, the district Moonsiff shall, on the requisition of the village Moonsiff, apply by letter to the Moonsiff of the district in which they may be, and require their depositions to be taken on the spot and forwarded.

The wording of the second clause is very loose, and leaves the nature of the requisition from the village Moonsiff to the district Moonsiff, of the communication of one district Moonsiff to the other, and of the deposition to be taken from the witnesses, equally undefined. It certainly is necessary that the names of the parties, and the particular points to which the depositions of the witnesses are required, should be stated to them, else the depositions taken may prove altogether irrelevant. It is equally necessary that the opposite party should have the option of furnishing cross interrogatories; for the truth may be coloured, if not altogether disguised, in the answers to interrogatories furnished by one party only.

Third. The village Moonsiff shall not summon any woman to appear before him, whose rank or cast may render her attendance improper; but he may require her to furnish her deposition in writing, duly attested.

The third clause is not more definite regarding the mode in which the deposition of a woman, whose rank or cast may render it improper to require her attendance, shall be taken or attested.

It is concluded, that it is not intended by either of these clauses that the witnesses shall be examined on oath; but is it intended that they shall be required to verify by oath depositions which they have given when not on oath? Is it intended, that the discretionary authority vested in village Moonsiffs, by clause third, Section 19, shall be exercised in these cases? The Regulation is silent on this head.

Under the uncertainty which exists as to the intentions of the Commission in this respect, it is not easy to frame legal provisions precisely applicable to the intended objects. An attempt has, however, been made to provide for all that it appears necessary to provide for.

Section 25. Parties, or their Vakeels, guilty of disrepect to the village Moonsiff, may be fined by him, in a sum not exceeding half a rupee, to be commuted at discretion for twenty-four hours confinement in the village choultry.

The necessity of providing against disrespect towards the Moonsiff will not be denied; but whether he should be permitted to commute a fine, which might be recovered by the party fined if wrongly imposed, for the disgrace of instant imprisonment, from which there is no appeal, is a question which ought to be well considered. The vexatious use which may be made of such a power is as obvious as the difficulty of checking

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checking it; and this difficulty arises from the new principle introduced into the code, of enabling Moonsiffs to levy the fines which they may impose. If the fine were to be levied only by the Judge, there would be no danger in making the fine commutable for imprisonment. The same observations, indeed, are applicable to Section 23.

Section 27. The decree shall contain the names of the witnesses examined, the title of every document read in the trial, and the sum of money or value of the property decreed, with an abstract of the grounds in which the decree is passed. The decree shall bear the signature and seal of the village Moonsiff and Curnum, and shall be dated on the day on which it is passed.

This section appears to be in part taken from Section 40, Bengal Regulation XXIII. of 1814, but differs from it in points that are material. It does not require the names of the parties to be inserted in the decree, which the Court consider to be indispensable. It does not require an abstract statement of the material facts alleged in the pleadings of both parties to be inserted in the decree, whereas, in the event of appeals, in cases where the evidence to the facts is not taken down in writing, the insertion of the material facts alledged, noting those which may have been established by proof and those of which the proof failed, might facilitate considerably the judgment in appeal. The section of the Bengal Regulation appears, in this respect, more perfect than that recommended by the Commission; and it contains a further provision for adjudging suitable costs and damages against a plaintiff preferring a claim evidently litigious and vexatious. Its adoption is therefore recommended.

Section 28. The village Moonsiff shall have authority to allow in his decree a reasonable time to the defendant for the discharge of the amount decreed.

It may sometimes appear reasonable, that time should be allowed to a defendant to discharge the amount decreed against him; but when abuse in the exercise of this authority by the Zillah Court is guarded against by minute precautions, it would appear proper that its exercise by a village Moonsiff should be not altogether unrestricted. He might be required to insert in the decree a statement of his reasons for exercising the power in question.

Section 29. First. Within three days after the date of the decree, one copy of the decree shall be given to the plaintiff, signed by the defendant, one to the defendant, signed by the plaintiff, and a third, with all the documents connected with the suit, shall be forwarded to the district Moonsiff.

No reason appears why the copies of the Moonsiff's decrees, which are to be delivered to the plaintiff and defendant, should each be signed by the opposing party; nor does the Regulation contain any provision for enforcing this rule, if the parties decline to conform to it: the rule had therefore better be omitted. The reason for forwarding a copy of the decree to the district Moonsiff is not obvious; and it is objectionable, as increasing the quantity of writing, and as burthening the district Moonsiff with records not his own.

Second. If the plaintiff or defendant shall not attend, either in person or by Vakeel, within three days, to receive a copy of the decree, or shall refuse to receive it when tendered, the village Moonsiff shall note this omission or refusal on the back of the copy of the decree, which he is directed to forward to the district Moonsiff, and the copies intended for the parties shall be kept by the village Curnum, until claimed by either party, in the event of his preferring an appeal.

The provision contained in this clause is liable to the objection which occurs to burthening the district Moonsiff with records unnecessarily. The endorsement on the copy of the decree of the refusal or omission of a party to receive it is perfectly correct.

This refusal or omission ought to influence the right of appeal. Indeed, this intention is to be inferred from the succeeding section.

The section is defective, in not containing a clause providing a penalty for a Moonsiff mis-stating or falsifying, or causing to be mis-stated or falsified, the date and purport of the endorsement directed to be written on the copies of the decrees. The Bengal Regulation XXIII. of 1814, contains this provision. The Commission may, therefore, have purposely omitted it, and assigned their reasons for so doing.

The Regulation is further defective, in not prescribing the material on which the village Moonsiff's decree is to be written. The continuance of the use of the palmira leaf, or cadjan, where it may be in common use, is unobjectionable.

Section 30. First. Any person dissatisfied with the decision of the

These clauses do not appear objectionable; except that the period for appealing should be reckoned from the delivery

village Moonsiff may appeal to the district Moonsiff, provided the petition of appeal be presented within fifteen days from the date of the decision, a copy of which the appellant must present with the petition.

very of the decree, not from the date of the decision; and that the second clause provides for the duty of the district Moonsiff, not that of the village Moonsiff. Indeed, the first clause seems to apply exclusively to the district Moonsiff, whereas it would appear sufficient in this Regulation to provide that an appeal shall lie from the decision of the village Moonsiffs to district Moonsiffs, under the rules prescribed regarding appeals in the Regulation passed for the guidance of those officers.

Second. The district Moonsiff, however, may admit the appeal after the prescribed period, in cases where the appellant shall shew satisfactory cause for not having presented his petition within the limited time. But whenever he shall admit an appeal which may be presented to him after the limited time, he is to enter upon the record of the trial his reasons for admitting the appeal.

Third. The district Moonsiff shall not suspend execution of the decree unless the appellant shall within three days give security for the eventual performance of it.

This clause implies that the village Moonsiff is vested with authority to enforce his decree in every instance. It will be seen, however, that the village Moonsiff is not vested with such authority; the clause, therefore, requires modification.

Fourth. No appeal shall be received by the district Moonsiff, unless the appellant, at the time, pay an institution fee of one anna per rupee on the amount adjudged or disallowed, which the Zillah Judge shall pay to the district Moonsiff on the decision of the suit.

This clause is indefinite. It does not point out to whom the appellant is to pay the institution fee in the first instance, while the concluding sentence of the clause provides that the Zillah Judge shall pay it to the Moonsiff on the decision of the suit, without its appearing how the institution fee is to come into the Judge's hands. Is the appellant to pay it to the Judge?

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All ambiguity would be removed, by prescribing that the appellant shall pay the institution fee to the district Moonsiff, and that the latter shall remit the amount collected by him on account of institution fees in each month with his report to the Zillah Judge. But the provision will appear with more propriety in the Regulation prescribing the duties of the district Moonsiff.

Section 31. The decision of the district Moonsiff on appeals from the decision of the village Moonsiffs shall be final.

This section properly belongs to the Regulation prescribing the duties of the district Moonsiff.

Section 32. In all cases of appeal from decisions of village Moonsiffs, no further pleadings shall be allowed than the petition of appeal and the answer.

This section belongs properly to the Regulation prescribing the powers, authority, and duties of the district Moonsiffs.

Section 36. The village Moonsiff, for all acts of corruption in his official capacity, shall be liable to prosecution in the zillah court by either party in the suit. If the charge be proved, he shall be adjudged to pay to the prosecutor a sum not exceeding three times the amount or value of money or property corruptly received, with all costs of suit.

This section appears to the Court defective, in not providing for the dismission of Moonsiffs proved to have been guilty of corruption. The continuance of such persons in office would be highly detrimental to the character of the judicial institutions under the British Government, and if a Moonsiff be not detected in every third instance of corruption, on an average, he may still drive a profitable trade. The dismissal of a corrupt Moonsiff would appear the best guarantee against a repetition of the offence, and might be expected also to operate forcibly in deterring others from the commission of similar acts.

Section 37. The decision of the village Moonsiff shall be carried into execution by himself, whenever it can be done without attacking the property of the defendant or party cast.

The efficiency of this section may be doubted, for few men will pay when they can withhold their money: and if the decree is to be executed only when it can be done without attaching the property of the defendant or party cast, there is little room to expect that the village Moonsiff will ever execute a decree.

Is the village Moonsiff at liberty to attach the person without attaching the property, leaving the party cast to satisfy the judgment by the surrender of his property? The village Moonsiff is empowered to confine in other instances: he is not prohibited from exercising the same power in this instance. May not some

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some Moonsiffs infer that they have this authority, and may not confusion and distress result from the abuse of it?

Section 35 prohibits a village Moonsiff from confining any party, Vakeel, or witness, except under the provisions specified in Sections 32 and 35, and those sections provide imprisonment in commutation of fine. Is it to be expected, that a village Moonsiff will infer that he is prohibited from confining a party for the purpose of enforcing his decree? If he do draw such inference, then there is no mode provided of carrying his decree into execution. It is left to the voluntary submission of the party; or the interposition of the district Moonsiff must be called for, and that officer's jurisdiction extends only to the sale of property.

Section 38. First. If the defendant shall not appear within the period limited for appeal, and shall not discharge the sum decreed against him within the period limited in the decree, the village Moonsiffs shall, on the written application of the party in whose favour the decree is given, attach the property of the party cast, to the amount of the sum decreed; but he shall give immediate notice of this in writing to the district Moonsiff, who shall, within one day after he receives it, send a Peon to sell by public auction the property attached in the presence of the village Moonsiff, and pay the amount decreed to the party for whom judgment has been given, taking his receipt, attested by the village Moonsiff and Curnum.

Second. The batta of the Peon sent by the village Moonsiff with the notice to the district Moonsiff, and of the Peon deputed by the district Moonsiff to sell the property attached, and every expense that may attend the sale, shall be defrayed by the defendant or party cast.

Third. The village Moonsiff shall cause notice of the intended sale to be given by beat of drum through the village, five days previous to the sale.

Fourth. Resistance to the sale shall be considered as a breach of the peace, and liable to the same punishment.

Something is wanting in the clauses of this section. It does not appear clearly whether the Peon deputed by the district Moonsiff to sell the property attached by the village Moonsiff is to be in any respect under the control of the village Moonsiff; on the contrary, it is presumable from the first clause that the village Moonsiff, on attaching the property, would have acted to the utmost extent of his authority, and that the Peon of the district Moonsiff would complete the process by effecting the sale. The third clause, however, does not support this construction. It requires the village Moonsiff to give notice of the intended sale, five days previous to the sale; and would therefore lead to the inference, that the day of sale must be fixed by the village Moonsiff, and that the Peon dispatched by the district Moonsiff will be, in respect to the day of sale at least, under the orders of the village Moonsiff. Yet it is not so stated in the Regulation. There is room for contention between the Peon and the village Moonsiff, which it must be desirable to remove. There does not appear any objection to making the Peon subordinate to the village Moonsiff.

It may, perhaps, be doubted whether the district Moonsiff may be able, in every case, to send a Peon, within one day after receiving notice of the attachment of the property; and, in this case, it may be expedient to legalize the sending a Peon as soon afterwards as may be practicable.

It appears, also, necessary to provide for the custody of the property in attachment, until the right to it shall be transferred by a public sale by auction. It is concluded, that the intention of the Commission is, that the property should continue to be held in attachment by the village Moonsiff until disposed of, and that the duty of the Peon deputed by the district Moonsiff shall be limited to selling the property; but as the Peon is to be deputed by a superior authority, and is not forbidden by the Regulation from assuming charge of the property, it is to be apprehended that he will be inclined to assume the power which is not expressly denied, and that this omission may form a ground of contention between the Peon and the village Moonsiff.

It is therefore proposed, that the relative powers and duties of the several authorities above-mentioned should be more distinctly defined.

Section 40. Suits tried by village Moonsiffs shall be exempt from fees, stamp duties, batta, and charges of every description, excepting those specified in Section 38 of this Regulation.

Important objections to this section exist, in the opinion of the Court, founded on the general inexpediency of encouraging litigation, a question which the Court will refrain from discussing in this place.

Section 42. First. The village Moonsiff is authorized to hear and determine all suits which may be voluntarily referred to his decision by both parties, whether they belong to

The observations stated regarding Section 7 apply equally to this section, and it is suggested that the first clause should be modified as there proposed.

his own village or to any other, whether real and personal property not exceeding the value of one hundred Arcot Rupees, for lands exempted from the payment of revenue to Government, the annual produce of which shall not exceed ten Arcot rupees, and for lands paying revenue to Government the annual produce of which shall not exceed one hundred Arcot rupees.

Second. He shall receive from the parties a bond, under their signatures, attested by two credible witnesses agreeing to abide by his decision.

With regard to the second and third clause, it is recommended that the term village Moonsiff be substituted for the pronoun.

Third. In his proceedings in such cases, he shall be guided by the same rules as have been prescribed for his conduct in trying suits by his own authority as Moonsiff.

No provision is made for enforcing the decree of village Moonsiffs in the cases to which these provisions refer. The opinion of the Commission on this point is not before the Court.

Section 43. His decisions, in such cases, shall not be set aside by the Zillah Judge, except at the instance of either party, for corruption or gross partiality, proved to the real satisfaction of the Zillah Judge, by the oath of two credible witnesses.

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In this section the Zillah Judge is mentioned for the first time with reference to the village Moonsiff; and he is prohibited from reversing decrees, which it does not appear, by any other part of the Regulation, that he can ever have before him. Perhaps it is intended, that these particular decrees only shall be appealable to the Zillah Judges; for it is provided by Section 30 that appeals from the decisions of the village Moonsiffs shall be to the district Moonsiffs, and by Section 31 the decisions of the district Moonsiffs on appeals from the decisions of village Moonsiffs shall be final. It does not, therefore, appear how the decisions of the village Moonsiffs can come before the Zillah Judges at all. If it be intended that cases of the nature described in the preceding section should be brought under the view of the Zillah Judges previously to the decrees on them being carried into execution, some provision expressive of such intention is certainly necessary. But is it intended that these particular cases should not be appealable to the district Moonsiff? If such be the intention, a provision to this effect is also necessary. These omissions are defects which cannot be supplied by inference, and it would therefore appear proper to call the attention of the Commission to them, and to require a declaration of their intention in framing this section.

Section 44. First. In all cases of inheritance of or succession to landed property, the Mahomedan law with respect to Mahomedans, and the Hindoo law with respect to Hindoos, are to regulate the decisions of the village Moonsiffs; and the village Moonsif, in all such cases, is to obtain an exposition of the law from the law officers of the Zillah courts, to whom he is to transmit a written abstract of the case for this purpose, through the district Moonsiff.

Second. In all such suits, the village Moonsiff is to cause to be affixed, in some conspicuous part of the village, a written notification of the claim preferred, with a requisition to all persons who may have any claim to the property sued for to prefer the same within a limited period, and his decision is to include all claimants to the property in question, who according to the law of the parties have just and legal title to share therein.

These clauses are framed upon the second and third clauses, Section 59, Bengal Regulation XXIII of 1814; from which however they differ, in assigning to the village Moonsiffs powers which the Bengal Regulation has assigned to the district Moonsiffs. The Court do not conceive it probable that the reference here provided for will often come before the Zillah law officers, in such form as to enable them to declare the law on the particular points to which its application is required; and in case of inheritance, it must be of the greatest importance that decisions, which may affect directly the rights of many, and by implication those of many others, should be strictly correct. The unravelling of a multiplicity of ill stated cases, with the probable necessity of repeated reference for farther information, appear likely to interfere very inconveniently with the duties of the law officers of the Zillah courts.

Section 45. First. The village Moonsiffs are prohibited from admitting as an exhibit, or from reviving in evidence, any obligation, bond, deed, or document, whether it be

This clause appears to be taken from Section 38 of Regulation XXIII, A. D. 1814, of the Bengal code. Its operation should be confined to documents written subsequently to the promulgation of the stamp Regulation.

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the original or copy of a description, which is or may be required to be written on stampt paper or stampt cadjan, of the description and value prescribed by the Regulations.

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Section 46. The village Moonsiffs shall, on the fifth of every month, transmit to the district Moonsiff all razeenamahs, and a report written by the Curnum of the suits decided on the preceding month, according to the following form, to be forwarded to the Zillah Judge.

Section 47. The village Moonsiff shall, on the last day of the 6th and 12th month of fusily year, transmit to the district Moonsiff reports of the causes depending before him, drawn out in the following form by the Curnum, to be forwarded to the Zillah Judge.

The month intended to be used is not here defined. The English fusily year of accounts ends on the 12th of July, but the last day of the Hindoo or Mahommedan month may not correspond with that day. The use of the calendar month, which is enjoined by the existing Regulations, is not prohibited in this; and if it is to be continued by the native judicial officers in one respect, it may as well be followed altogether, and these reports be made up to the 30th June and 31st December, in order to correspond with the report furnished by the Zillah and provincial courts.

It does not appear from what materials the reports are to be formed; for it is no where enjoined that a file of record should be kept, though in directing that a report shall be made in a particular form, the existence of a file would seem to be implied.

REGULATION II.

Title: A Regulation for authorizing village Moonsiffs to try by punchayet, within their respective jurisdictions, civil suits for real and personal property, in certain cases to a limited amount, and in other cases without limitation, throughout the territories subject to the Government of Fort St. George.

The title prefixed to the second Regulation does not describe the Regulation, which is not a Regulation for authorizing village Moonsiffs to try by punchayet civil suits for real and personal property. There is no part of the Regulation which authorizes a village Moonsiff to conduct or interfere, in any respect, with the trial of such suits. It does not appear that he is to be present during any part of the trial; and the contrary is inferrable from the provisions contained in Sections 20 and 21, the former providing that " when the whole " of the evidence has been gone through, the village punchayet shall direct " the parties and witnesses to withdraw, and *shall deliberate in private.*" The village Moonsiff is not ordered to withdraw; but all idea of his being present at such private deliberation is destroyed by the following section, which prescribes " that three copies of the decree shall be prepared by the village pun- " chayet, attested by their respective signatures. They shall be put under a " sealed cover, and delivered to the village Moonsiff, who shall send for the " parties without delay, open the seal in their presence, and cause the pun- " chayet to deliver to each, in his presence, a copy of the decree; but no " communication shall be made to the village Moonsiff, or to either party, on " the nature of the decree previously to its delivery. A third copy of the de- " cree, with the documents and proceedings, shall be transmitted by the vil- " lage Moonsiff, within three days from its date, to the district Moonsiff, to be " forwarded with the monthly reports to the Zillah Judge."

It does not even appear that the decree is to be read in the presence of the Moonsiff.

By Section 28 it is provided that " the decisions of the village punchayets " shall be carried into execution by the village Moonsiff, under the rules pre- " scribed by Section 38, Regulation I, provided the amount of the decision " do not exceed one hundred Arcot rupees." By the section last quoted, the powers of the village Moonsiff are limited to the attaching of the property, giving notice of the attachment to the district Moonsiff, and fixing the day of sale. In this respect, he is a ministerialist, not a judicial officer. The Moonsiff is mentioned in Section 17 connectedly with the punchayet, and both are prohibited from requiring securities from defendants in suits depending before the village punchayet. But this is the only provision on which a supposition can be raised that the Moonsiff is at all concerned in the trial; and it refers only to securities, and instead of conferring any authority on the Moonsiff to require securities, it interdicts the assumption of such an authority, either by the Moonsiff or by the punchayet: the inference that the Moonsiff has any thing to do with conducting the trial cannot therefore be deduced from this provision.

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In the following Section 18 it is provided, that in " cases in which the an-" swer shall have been delivered to the punchayet, and the parties, or either " of them, shall fail to appear in person or by Vakeel, at the time fixed for " the trial, the *punchayet* shall *suspend* the trial, and the *village* Moonsiff shall " cause to be affixed, in some conspicuous place of the village, a notice, spe-" cifying that the suit will be tried on a given day, which shall not be less " than five days from the date of the notice."

Here again the Moonsiff appears acting ministerially for the punchayet.

By Section 19, the village Moonsiff is enjoined to pursue the same means for procuring the attendance of witnesses before the punchayet, and for punishing contempts of the punchayet, as he would resort to if the suits were under trial before himself and the presence of the witnesses were required, or the contempt had occurred before him; and in these several instances which have been mentioned, consists the whole extent of his agency after assembling the punchayet. In no part of the Regulation is the Moonsiff to be found presiding as the Judge in the punchayet; he therefore does not try civil suits by punchayet.

Preamble. It being deemed expedient to promote the decision not only of petty suits but of suits of every description, and it being necessary, for this purpose, to call into operation the ancient institution of trial by punchayet, and it being desirable to render the principal and more intelligent inhabitants, as well as the heads of villages, useful and respectable, by employing them in administering justice to their neighbours, the following rules have been enacted.

The preamble to the Regulation is objectionable, as not stating the reasons for its being enacted. A person reading, " It being deemed expedient to promote the decision " not only of petty suits but of suits of every description, " and it being necessary, for this purpose, to call into " operation the ancient institution of trial by punchayet, " &c." would be naturally led to the inference, that the decision of petty suits only had been provided for by the former institutions of the British Government: but this is not consistent with the truth; for property to a large amount is held under decrees passed by the courts of judicature, and the native Commissioners acting under them. Such an implied stigma on the British Government ought not, therefore, to be allowed to stand recorded in the Regulations. With regard to the heads of the villages, whom it is proposed " to render useful and respectable, by employing them in admi-" nistering justice to their neighbours," they have been declared by the first Regulation to be village Moonsiffs; and it has been shewn, that the only share they have in administering justice, under the provisions of this Regulation, is in referring suits to punchayets for their decision, and in carrying the decision into execution.

Section 2. Every village Moonsiff shall, in virtue of his office, be authorized to summon punchayets within his village, and he shall be furnished with a copy of this Regulation for their guidance, to be lodged with the village Curnum.

This section exhibits a mixture of the authority granted to every village Moonsiff, as is stated, " in virtue of his " office," and therefore not by this Regulation, and of the duty of some public officer to furnish to him a copy of the Regulation for his guidance, to be lodged with the village Curnum.

Two sections are proposed to be substituted, one consisting of two, and the other of six clauses, defining the cases in which punchayets shall be assembled, and the mode of forming those assemblies. In the several clauses of these sections, the suggestions of the Commission, diffused through separate sections,* are retained; but an attempt has been made to convey them in language more clear and precise, and consequently more easy of translation.

The considerable alteration of arrangement which has been made in the proposed sections would have rendered it necessary to new model the whole Regulation, even if there had been no objection to the remaining part of it. This has accordingly been done, retaining nearly all the provisions made by the Commission, on some of which, however, it is necessary to remark. Of the provisions contained in the first Regulation, which have been objected to, and which are repeated in the second, it is unnecessary to speak.

The fourth section of the draft now proposed consists of thirteen clauses, comprehending the duties of the punchayets assembled on the requisition of one of the parties to a suit. The only thing new in this section is the seventh clause, which

* Sections 4, 8, 9, and 23.

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which provides for an immediate communication by the punchayet to the Moonsiff of the list of witnesses, in order that he may summon them to attend the punchayet. This provision is not found in the Regulation prepared by the Commission, but it appears to be necessary.

The limitation of the number of witnesses has been omitted from the tenth clause, for the reasons given in the examination of the first Regulation.

Section 5 of the draft is nearly conformable to Section 19 of the Regulation prepared by the Commission.

Section 6 contains the provision made by the Commission in Section 20, except that it does not enjoin the punchayet to deliberate in private. The ordering of the parties and witnesses to withdraw, however, and the prohibition contained in Section 8 of the draft, against a communication of the decree to the Moonsiff or to either party, previously to its delivery, must be held to sanction this privacy of deliberation.

Sections 7, 8, 9, 10, 11, and 12 do not appear to require particular explanation. They contain provisions made by the Commission, although the order of them is changed.

In Sections 13 and 14 a distinct provision is made for referring suits to the decision of a punchayet by a joint desire of the parties. The objection to the selection of two members by the parties has not been preserved, because the reason for such objection is not stated. In Regulation 22 of 1802, the "courts "are directed to endeavour to prevail upon parties to submit their cause to "the arbitration of one person, to be mutually agreed upon by them;" but no objection whatever is expressed to the choice of the arbitrators by the parties. The Commission may, perhaps, have assigned reasons for this objection, which do not appear in the Regulation.

In Section 15 is preserved the option allowed to parties who may have proved corruption against the punchayet of having "recourse to another punchayet "or to any competent jurisdiction;" but there is something very vague in the latter provision, which promises but little gratification to a suitor. To be deceived and injured by a punchayet, is the purchase of a privilege to commence a new litigation in a court of judicature: it forms a case, however, difficult to be provided for.

Section 16 is nearly the same with Section 29 of the draft furnished by the Commisssion, and provides in addition that either paper or cadjan leaves may be used for writing the decree upon.

The remaining sections of the Regulation do not seem to require explanation. They contain provisions which are to be found in the Regulation proposed by the Commission, but which have necessarily fallen into a different arrangement, in consequence of the alterations proposed in the former sections of that Regulation.

REGULATION III.

The third Regulation proposed by the Commission is compiled chiefly from Regulation XXIII of 1814 of the Bengal Code, which has been introduced into practice, and is applicable to the same description of people as those whom it is intended to employ, in the territories under this presidency, to discharge the duties for which it provides. The examination of it, therefore, need not be long: but there are provisions in the draft which require to be noticed, as apparently differing from the general spirit of the Regulation.

Preamble. Whereas the rules which have been enacted for constituting the office of Moonsiffs or native Commissioners, and of Sudder Ameens or head Commissioners, for the trial and decision of causes of a certain amount, have appeared in some instances to require revision, &c.

The Bengal Regulation, from which this draft is compiled, comprehends, with certain amendments and modifications, "the several rules which have been passed regarding the office of Moonsiffs or native Commissioners, and "Sudder Ameens or head Commissioners," &c.; but this draft, although by Section 2 all the existing enactments respecting Sudder Ameens are rescinded, provides only for the office of Moonsiffs or native Commissioners, the modification of the rules regarding Sudder Ameens being reserved for a separate Regulation.

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Regulation. It would be proper, therefore, to omit from this preamble the words "of Sudder Ameens, or head Commissioners."

Section 2, Regulation XVI, 1802, such part of Section 23, Regulation XXVIII, 1802, as regards native Commissioners, Section 2, and such part of Section 5, Regulation V, 1808, as regards native Commissioners, Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 23, Regulation VII, 1809, Regulation X, 1809, and Section 9, Regulation II, 1811, are hereby recinded.

As the provisions of this Regulation have no reference whatever to the office of Sudder Ameens, the Court would recommend that this section should be limited to the rescindment of such parts only of the existing Regulations as relate to the office of Moonsiffs or native Commissioners.

Section 5. First. The Judges of the several zillahs shall, on the receipt of the Regulation, prepare and submit to the provincial court a new establishment of district Moonsiffs, whose local jusisdictions shall be so arranged as to include one or more whole tehsildaries or police jurisdictions, or *vice versâ*. They shall, at the same time, report to the provincial courts the name of the town or villages in each jurisdiction which may be best adapted for the establishment of such Moonsiff's cutcherry.

This clause is taken with some modifications from Clause first, Section 6 of the Bengal Regulation above-mentioned. The Court would propose the omission of the words "or *vice versâ*," the meaning of which, in this place, is not very apparent.

Section 11. The persons who may be invested with the powers of district Moonsiff under this Regulation, are empowered to receive, try, and determine all suits preferred to them against any native inhabitants of their respective jurisdictions, for money, or other personal or real property, not exceeding in amount or value the sum of two hundred Arcot rupees, for lands exempted from the payment of revenue to Government, the annual produce of which shall not exceed twenty Arcot rupees, and for lands paying revenue to Government, the annual produce of which shall not exceed two hundred Arcot rupees.

The definition of real and personal property, contained in this section, is defective, and liable to all the objections stated in the Court's remarks upon Section 7 of the first Regulation.

Section 12. Third. They are further prohibited from receiving or trying any suit which persons may desire to prefer to them *in formâ pauperis.*

This clause is copied verbatim from Clause third, Section 13 of the Bengal Regulation above-mentioned; but the meaning would be better expressed by declaring that no person shall be admitted to plead *in formâ pauperis* in any suit before the district Moonsiffs. A person's being desirous of preferring a suit *in formâ pauperis* is not a sufficient ground for excluding the suit.

Section 14. First. No person shall be allowed to act as a Vakeel in the court of any district Moonsiff for plaintiff or defendants, unless he be a relative, servant, or dependant of the person for whom he may be appointed to act, and unless he be provided with a vakalutnamah.

Second. The zillah Judges shall recal and cancel all sunnuds granted to Vakeels under Section 17, Regulation VII, 1809.

The Court would recommend a different arrangement of these two clauses, making the second first, and the first second. To the first clause the same observations are applicable as were made in respect to Section 10 of the first Regulation.

Section 15. The district Moonsiffs shall not try any suit in which the cause of action shall have arisen twelve years before any suit shall have commenced on account of it, unless the Plaintiff can prove that he preferred his claim to a competent authority, or that the defendant had admitted the truth of it within that period.

The Court have given their reasons for objecting to retrospective jurisdiction in the instance of the village Moonsiffs; and if it should be deemed proper to confine the retrospect to a shorter period in this instance, the application of the same measure to the district Moonsiffs is recommended, as tending to prevent the accumulation of arrears of business in the lower courts.

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Section 19. It shall be the duty of the district Moonsiffs to prevent the insertion in the plaint of any irrevelant matter. The plaint shall be signed, and numbered and dated in the order in which it may be received by the Moonsiff, and the number of the suit, the names of the parties, the date on which the petition is received, the amount claimed, and the subject matter of the suit, shall be carefully entered in a book to be kept by the Moonsiff, according to the form, No. 3 of the Appendix. Two blank columns shall be left in the book, in the first of which shall be inserted the date of the decision, and an abstract of the final order passed in each suit, shewing whether the claim be decreed in whole or in part, or non-suited or adjusted by razeenamah, or dismissed on investigation of the merits, or otherwise disposed of, and the amount of the costs adjudged against either or both of the parties; in the second blank column shall be inserted the date on which the copies of the decrees may be furnished or tendered to the parties, with a view to ascertain that the register books are regularly kept, in the manner above prescribed, and that depending suits are brought to a hearing according to their order on the file. Two Zillah Judges are respectively required to inspect them once at least in each year, and for this purpose shall require the several district Moonsiffs to transmit them to the court during the period of the vacation, or at any other time, as may be most convenient.

This section corresponds with Section 18 of the Bengal Regulation above quoted; except that it omits the injunction to the Moonsiffs to discourage, as much as possible, the insertion in the plaint of terms of abuse and reproach against the character of the defendants or others. The Commission may have considered these to be included among the irrelevant matter, as they undoubtedly are, and the Regulation should be so interpreted; but the insertion of such terms in the pleadings of the higher courts has been by no means uncommon, and its prevalence in the proceedings of the lower tribunals is to be expected. Terms of abuse and reproach are, indeed, among the common modes of advocacy in India; and when a party has paid for the stamp paper on which they are recorded, he thinks it very hard to have his paper returned to him, and to be told that he has thrown his money away.

To have been too strict, in the first instance, in repressing a practice which the parties regarded as nothing more than a common form, would have been to deal harshly with them: but this impropriety will, in the course of business, be removed from the records, and it may not perhaps be necessary to perpetuate the recollection of it by an act of the Government. A precept from the Sudder Adawlut may be sufficient to improve the records of the provincial and zillah courts, and a due notice, by the latter, of any impropriety in language in the proceedings which may come before them from the lower judicatories, will check and ultimately destroy it in practice.

Section 20. When the complaint shall have been thus received and entered in the book according to the prescribed form, the district Moonsiffs shall cause to be served on the Defendant a written notice, under his seal and signature, containing only the number of the suit, the names of the parties, and a short statement of the demand, and requiring the defendant to attend in person, or by Vakeel, and to deliver an answer to the plaint, on or before a certain day, which must be specified in the notice.

This section corresponds with Section 19 of the Bengal Regulation, with the exception of the latter part of the last clause, which in the Bengal Regulation requires that the service of the notice on the defendant shall be witnessed and certified; a formality which the Commission would appear to consider unnecessary, when the defendant shall acknowledge the service of the notice by his signature.

Section 22. If a defendant who may have been served with a notice, as directed in the two preceding sections, shall not appear in person or by Vakeel, within the time specified, or if having appeared he shall refuse to answer the plaint, the district Moonsiffs shall proceed to try the cause *ex parte*, first satisfying his mind that the notice was duly served on the defendant; and after examining the plaintiff's evidence in support of his claim, the district Moonsiffs shall give judgment, in the same manner as if the defendant had appeared and answered to the plaint.

In this section are united the two clauses of Section 21 of the Bengal Regulation, so modified, however, as to leave the proof of the service of the notice on the defendant rather too vague and uncertain. The district Moonsiff is merely required to satisfy his mind that the notice was duly served, but the mode by which this satisfaction is to be obtained is not stated; and it is to be apprehended, that his mind may be too easily satisfied of the default of the defendant. This laxity of provision arises from the omission from Section 20 of the corroborative evidence of the service of the notice which is required by the Bengal Regulation; and the Court are of opinion, that the proposed Regulation would be more perfect, if the omitted parts of the Bengal Regulation were restored, substituting only the terms and appellations employed to designate individuals and officers under this presidency, for those which are in common use in Bengal, such as the Curnum for the Putwarry, and the Thannadar for the Mohulladar.

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Section 24. In suits depending before them, the district Moonsiffs are hereby strictly prohibited from requiring security of any kind from the defendant, if the Moonsiff shall be satisfied by sufficient proof, that the defendant intends to abscond and to withdraw himself from the jurisdiction of the court, or that he means to dispose of the property in his possession, for the purpose of avoiding the execution of an eventual judgment against him the district Moonsiff is hereby empowered to attach the defendant's property to the amount of the claim, and to hold it in attachment till the decree is satisfied.

The first part of this section corresponds with the first part of Section 23 of the Bengal Regulation, with exception to the prohibition against the attachment of a defendant's property. The latter part of the sections differ in the authority granted to the Moonsiffs, who by the Bengal Regulation are required to report the circumstances of each case to the Judge, and by the draft under consideration "are empowered to attach the defendant's property "to the amount of the claim, and to hold it in attachment "till the decree is satisfied."

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The Court have, in another part of these proceedings, stated their opinion of the inexpediency of vesting uncontrolled authority in the native Judges; and they have observed, that the granting of such power is not in conformity with the instructions of the Honourable Court of Directors. It may be, perhaps, less dangerous in the hands of district than of village Moonsiffs, as district Moonsiffs are liable to dismission, which is not the case with the village Moonsiffs.

Section 26. It shall be the duty of the district Moonsiffs to restrain and discourage, as much as possible, the insertion in the answer of any matter evidently irrelevant to the suit; but the defendant shall state in his answer, all that he has to say regarding the case, and no further pleadings shall be admitted.

The first part of this section corresponds with the first clause of Section 25 of the Bengal Regulation; except that the mention of "terms of abuse and reproach against the character of the parties or other persons," is omitted. The same omission was noticed in speaking of the plaint.

The concluding part of the section limits the pleadings to the answer of the defendant, in which respect it differs altogether from the Bengal Regulation. The pleadings will be shortened, in the first instance, by this Regulation; but whether it will tend to bring the matter to a clear and distinct issue, is a different question altogether.

If the preference be given to a speedy discharge of the district Moonsiff's file over a correct and satisfactory administration of justice, then not a doubt can be entertained with respect to the expediency of the proposed measure; but it may be still questioned, whether the expedient will not be merely temporary, and whether it will not multiply the grounds of appeal.

If, however, the preference be given to a correct administration of justice, which shall at least have the best chance of satisfying the parties, and thereby relieving the Zillah courts from numerous appeals, as little doubt can be entertained that district Moonsiffs ought to have the fullest information in the pleadings, of the points on which the parties are at issue, and which they intend to sustain by evidence.

A reference to the second, third, fourth, and fifth clauses of Section 25 of the Bengal Regulation XXIII. A. D. 1814, is recommended, as they describe the cases in which it may be necessary to amplify the pleadings, and the mode in which they ought to be brought to a conclusion.

Section 32. First. If any person, upon whom a summons may have been duly served in the manner above prescribed shall not attend on the day appointed, the Moonsiff is authorized to attach any property belonging to such person which may be found within his own jurisdiction. If, after a reasonable time subsequent to such attachment, the person summoned shall still omit or refuse to attend, and it shall satisfactorily appear by the oath of the party requiring his evidence, that the testimony

The clauses of this section correspond with those of Section 31 of the Bengal Regulation; except that, in the latter, fines are declared leviable under the general Regulations in force for the execution of decrees, and in the draft the special rules contained in it are referred to. The alteration is necessary. It may be doubted, however, whether

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of such person is material to the cause, the Moonsiff shall report the circumstances of the case to the Judge, who will exercise his discretion in issuing such further process, in order to compel the appearance of the witness before the Moonsiff, as might be issued under the Regulations if the suit were depending before the Judge.

Second. If, notwithstanding this further process, the attendance of the witness cannot be obtained, the Judge shall, at his discretion, impose on such witness a fine, not exceeding in any case the value or amount of the property in dispute Such fine shall be realized by the Moonsiff, under the provisions made for the execution of decrees by this Regulation.

Third. In cases in which a witness duly summoned may attend before the Moonsiff, but shall refuse to give his evidence or to subscribe his deposition, the Moonsiff shall impose such fine by his own authority, without first reporting the circumstances of the case to the Judge, who will either remit or modify, or confirm the fine imposed by the Moonsiff, who will proceed to realize it if confirmed, as is prescribed in the preceding clause.

whether the Commission intended to adopt that part of the third clause, by which a Moonsiff is strictly prohibited from realizing fines by his own authority. If such be their intention, Section 53 of the draft will require modification.

Section 33 If any district Moonsiff shall require the evidence of a person not subject to his jurisdiction, and such person shall not attend at the requisition of the parties, the Moonsiff shall make application to the Zillah Judge, who will issue the necessary process for procuring his attendance, either through the proper officers of his own court, or through the Judge or the Moonsiff within whose jurisdiction such person may reside.

Second. If, however, the residence of a witness shall be at a considerable distance from the district Moonsiff's cutchery, or if other circumstances should render it inconvenient or improper to compel the personal attendance of any witness, the Moonsiff is hereby authorized and required to transmit to the Judge any written interrogatories which he may think necessary, or which may be suggested by the parties or their Vakeels in the suit. On receipt of such written interrogatories, the Judge will proceed to obtain the evidence of the witness, in the mode prescribed in the preceding clause.

The first clause of this section corresponds with the first clause of Section 32 of the Bengal Regulation; but the second clause differs materially from the second clause of the section in the Bengal Regulation, as in that the several modes prescribed for taking the evidence of persons whom it would be improper for whatever reason to call personally into court, are referred to, whereas the clause in the draft states that the Judge will proceed to obtain the evidence of the witness, in the mode prescribed in the preceding clause. The first clause will be found to prescribe the mode of procuring the attendance of a witness. Thus, then, the section ordains that the Judge shall proceed to obtain the evidence of a person exempt, for whatever cause, from giving personal attendance, in the mode prescribed, for procuring his personal attendance.

The Court apprehend that some error must have occurred in this section, and recommend that the principle of the Bengal provision be adopted, which will make it necessary to refer to section 7, Regulation III, A. D. 1802.

By Section 24 of the first Regulation proposed by the Commission the district Moonsiffs are authorized, on the application of a village Moonsiff, to obtain, without the intervention of the Zillah Judge, the evidence of persons not residing within their jurisdiction. By the section now under consideration, the district Moonsiffs, if they shall require the evidence of a person not residing within their jurisdiction, are directed to make application to the Zillah Judge, who will issue the necessary process, &c. The grounds upon which the district Moonsiff's authority is limited in one case and not in the other are not apparent.

Section 34. The district Moonsiffs, when they deem it necessary, shall administer to witnesses such oaths as may be considered most binding on

This section corresponds with the Section 34 of the Bengal Regulation, except in the discretion which is vested in the district Moonsiffs of administering oaths when they deem

their consciences, according to their respective religious persuasions. But if the witness shall be of a rank which, according to the prejudices of the country, would render it improper to compel him to take an oath, the Moonsiff may dispense with his being sworn, and in lieu thereof cause him to subscribe a solemn declaration, under the rules prescribed in Section 7, Regulation III. 1802.

deem it necessary. This provision is liable to the observations which were recorded regarding a similar provision in the first Regulation proposed by the Commission.

Section 35. The district Moonsiffs are at all times authorized to cause the examination of a witness to be taken on a solemn declaration, or even without such solemn declaration, whenever the parties in the suit, or their respective vakeels, may agree to such witness being so examined.

This section corresponds with Section 35 of the Bengal Regulation, and would appear to do away the necessity for the discretion vested in the district Moonsiffs by the preceding section. If the parties choose to abide by the declarations of their witnesses, unsupported by an oath, there does not appear to be any objection to it. The mutual agreement of the parties, however, may be regarded as of very doubtful occurrence.

Section 37. Second. The district Moonsiff shall not examine more than four witnesses on each side, except in particular cases, where they may deem further evidence absolutely necessary.

The second clause limits the number of witnesses to be examined: a provision on which the Court have recorded their opinion in their examination of the first Regulation.

38. First. No fees shall be levied on exhibits filed before the district Moonsiffs; and exhibits shall be received in suits depending before them, without any written application for that purpose. The Moonsiffs are prohibited from admitting or filing as an exhibit, or from receiving in evidence, any obligation, instrument, bond, deed, or document, whether it be the original or a copy of a description which is or may be required to be written on stampt paper or stampt cadjan, unless it shall have been duly executed on stampt paper or stampt cadjan, of the description and value prescribed by the Regulations.

The first clause of this section corresponds with the first clause of Section 38 of the Bengal Regulation.

Second. Copies of all Regulations in force on stampt paper and stampt cadjans shall be furnished by the Zillah Judges to every district Moonsiff in their respective zillahs, for their guidance.

Third. When an exhibit is filed in a suit before the district Moonsiff, it shall be dated and signed or sealed by him, and shall be marked with some letter or number to identify it, and such letter or number shall be distinctly referred to in those parts of the depositions of the witness, or of the proceedings, or of the decree which may allude to such exhibit.

The second differs from that of the Bengal Regulation, in requiring the Judges to furnish to the district Moonsiffs copies of all Regulations regarding stampt paper and stampt cadjans, instead of permitting the Moonsiffs to refer for the opinion of the Judges any document of which he may entertain doubts as to its being written on the prescribed stampt paper. The Court give the preference to the clause proposed by the Commission, as it will relieve the Judges from unnecessary applications.

The third clause corresponds with the third clause of the section in the Bengal Regulation.

Section 46. There shall be no appeal from the decision of a district Moonsiff, unless the amount or value of the property decreed or disallowed exceed ten Arcot rupees, as calculated in Section 7, Regulation I, 1815.

This section provides that there shall be no appeal from the decision of a district Moonsiff, unless the amount or value of the property decreed or disallowed exceed ten Arcot rupees, "*as calculated* in Section 7, Regulation I, "1815." This phrase runs through all the Regulations which refer to the same section, and is erroneous, for there is no calculation in the section referred to, which contains the rules for calculating. The rules for performing the operation, and the operation itself, are confounded by this reference.

Section 47. If the suit shall have been regularly appealed, the execu-

This section is conformable to the fourth clause of Section 45 of the Bengal Regulation; except that it provides that

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on of the district Moonsiff's decree iall be suspended or otherwise, according to the orders he may receive om the Zillah Judge.

that the suspension of the Moonsiff's decree shall be dependent on the orders of the Judge, instead of on the rules in force. The provision appears conformable to the orders of the Honourable Court of Directors; but to render it effectual, a further provision is necessary, that the Moonsiff shall not carry his decree into execution until after the lapse of sufficient time allowed for the receipt of orders from the Zillah Judge. This provision might be added to Section 45.

Section 53. The District Moonsiffs shall be authorized to realize the amount of fines which may be imposed by them, by the attachment and sale, if necessary, of the property of the offending party.

It has been already noticed, that this section, and Section 32, do not perfectly agree. A provision added to this section, that the fines shall have been previously confirmed by the Zillah Judge, or the excision from Section 32 of the prohibition imposed on the district Moonsiff, is necessary. The latter would appear conformable to the spirit in which these Regulations are drafted; for when a village Moonsiff is allowed to levy fines, there does not appear any reasonable ground for denying that authority to a district Moonsiff, who, in qualifications at least, if not in character, will be generally superior to the village Moonsiff, and who in fact is vested with authority, in other respects, superior to that of the village Moonsiff.

55 First. In appealable suits, any person dissatisfied with the decision of a district Moonsiff, shall be at liberty to appeal from it to the Zillah Judge, provided the petition of appeal be on stampt paper, and presented, with the institution fee thereon, within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their Vakeels, in conformity with section 41 of this Regulation. A discretionary power, however, is vested in the Judge, of admitting appeals from decisions of the district Moonsiffs, although the petitions may not be presented within the prescribed period, if the appellant shall shew satisfactory cause for not having before presented the petition.

The first clause of this section corresponds with the first clause of Section 56 of the Bengal Regulation: with the exception of requiring the petition of appeal to be written on stampt paper, which appears to be perfectly proper.

Second. All petitions of appeal from decisions of the district Moonsiffs are to be presented to the Judge of the zillah in which the Moonsiffs may officiate, and the Moonsiffs are prohibited from receiving any petitions of appeals from their own decisions. The decisions of the Judge on all such appeals shall be final.

The second clause corresponds with the second clause of the section above quoted; with the exception of the last line, which comes in rather abruptly in the middle of the provisions regarding the preferring and receiving appeals. The provision would naturally form the last clause of the section.

Section 59. First The district Moonsiff is authorized to hear and determine all suits which may be voluntarily referred to his decision by both parties, whether for real or personal property, not exceeding the value of two hundred Arcot rupees, as calculated in Section 11 of this Regulation.

Second He shall receive from the parties a bond, under their signatures, attested by two credible witnesses, agreeing to abide by his decision.

Third In his proceedings in such cases, he shall be guided by the same rules as have been prescribed for his conduct in trying suits of his own authority as district Moonsiff.

The wording of the several clauses of this section appears to be too loose and indefinite, and the arrangement is defective. The bond prescribed by the second clause has no penalty attached to the breach of its obligations. The reasons for levying from the defendant one half of the institution fee, as provided by the fifth clause, are not apparent, and the reasoning which would justify the imposition of such a tax on the defendant, in these cases, would justify it in all. It can scarcely be expected, that a defendant will agree to refer a clause to the arbitration of a Moonsiff, if such reference is to subject him, in the first instance, to an expense from which he would be free, if the suit were to be tried in the ordinary manner.

Fourth. The district Moonsiff's decision in such cases shall not be set aside by the Zillah Judge, except at the instance of either party, for corruption or gross partiality proved to the full satisfaction of the Zillah Judge by the oath of two credible witnesses.

The provisions of the fourth clause should be made the subject of a separate section.

Fifth. The district Moonsiff shall, on such cases, receive from the parties an institution fee of one anna per each rupee on the amount or value of the property in dispute, to be paid by them in the proportion of half each. The party cast shall pay the whole.

Section 59. As a compensation to the district Moonsiffs for their trouble, and for the expense of such establishment, as may be necessary for the discharge of their official duties, on their passing a decision upon the merits of any suit before them, or upon any suit depending before them being adjusted by razenamahs of the parties, and in these two cases only, they shall receive from the Zillah Judge the fee of one anna per rupee, paid on the institution of such suit. If in any instance the allowance shall be found insufficient for the above purpose, the Governor in Council will sanction such salary in addition thereto, as may appear requisite for the encouragement of well qualified persons to hold the office of district Moonsiffs, and to perform the duties of it with diligence and fidelity.

Second. District Moonsiffs shall, from the month succeeding the receipt of this Regulation, transmit to the Zillah Judge, along with the monthly reports required by this regulation, an exact monthly statement of all sums levied and received by them on account of the institution fee upon all suits instituted before them, and shall at the same time remit the amount of the fees so received by them in the preceding month. The Zillah Judges shall credit in their public accounts the whole of the institution fee so remitted to them, and on inspection of the monthly report of causes decided by the Moonsiffs shall pay to them the amount of the institution fee authorized by the preceding clause.

The two clauses of this section appear to be taken from Section 13 of Regulation VII, A. D. 1809. There appears no objection to the principle of remuneration established for the Moonsiffs: but it may be doubted, whether the suits on which the fees are to be paid to the district Moonsiff, and those on which the fees are not to be paid to them, are so well defined as they are in the original section. The proposed section is concise and positive; and as the enforcement of it rests with the Zillah courts, and not with the Moonsiffs, there is no danger from its being misinterpreted by the latter: its conciseness may, therefore, be considered to give it the preference.

REGULATION IV.

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This Regulation is nearly a counterpart of the second Regulation. It empowers district Moonsiffs to assemble punchayets for the adjudication of civil suits, under rules and restrictions similar to those prescribed by the second Regulation for assembling village punchayets, but enlarging the jurisdiction, and authorizing the levy of an institution fee, and the payment of batta to witnesses and to the members of punchayets.

Upon the provisions of this Regulation which are not contained in the second Regulation the Court have to offer a few observations.

By Clause second, Section 4, it is provided that the district Moonsiff shall levy from the party requiring the punchayet a fee of half an anna in the rupee on the amount or value of the property in dispute. The defendant may be the party requiring the punchayet, and the reason why he should be burthened, in the first instance, by the payment of the fee, is not at all obvious. The professed object of the Regulation is to promote the reference of suits to punchayets; but the provision above-mentioned is calculated to defeat that object, for it can hardly be expected that a defendant will require to have the matter in dispute referred to a punchayet, if the reference is to subject him to an expense, from which, in the ordinary course of proceeding, he would be free, at all events until the suit should be decided. The disbursement of the fee by the defendant, in

in the first instance, must be considered as a tax paid for the privilege of having the claim which is made against him adjudicated by a particular tribunal; and as it must be supposed that justice is equally administered by all the tribunals authorized by the British Government, it may be doubted whether a defendant will, in any case, think the privilege worth the purchase.

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Nearly the same observations are applicable to Clause second, Section 5, by which it is provided that when both parties agree to have the matter in dispute referred to a punchayet, half of the institution fee shall be paid by each party respectively. The Court objected to a similar provision contained in Section 59, Regulation III. In the draft prepared by the Court, the institution fee is, in all cases, made payable by the plaintiff in the first instance.

The institution fee payable under Clause second, Section 4, in cases where one party only requires a punchayet, is at the rate of something more than three per cent.; and the institution fee payable under Clause second, Section 5, is at the rate of one per cent, or taken at an average, it may perhaps be calculated at one and a half per cent. The Court are not aware of any reason for making this distinction; and as the amount of the institution fee collected in these cases is to be appropriated as a compensation to the district Moonsiffs, it may perhaps be apprehended that they will use their influence to prevent parties from agreeing to have their differences referred to a punchayet, under the provisions of Section 5. At all events, it will be to their interest to do so, in all cases wherein the matter in dispute does not exceed the amount or value cognizable by themselves.

Sections 27, 28, and 29, which provide for the payment of batta to members of punchayets and to witnesses, are so loosely worded, as to leave the intention of the Commission, in several respects, extremely doubtful. From the first part of Section 27, which prescribes that "every member of a district punchayet "shall receive daily, from the date of his leaving his village until his return, "batta at the rate of from one anna to a quarter of a rupee per diem, according "to his situation in life," it is to be inferred, that this batta is to be paid to him *daily*: but this inference is done away by the following part of the section, which prescribes that "the batta is to be collected without delay from the party "cast," and, of course, not till the decision shall have been passed.

Section 28 provides that the batta to witnesses shall be "paid by the order "of the district Moonsiff by the party at whose instance they are summoned." It is not specified, that the witnesses, like the members of the punchayet, shall receive this batta *daily*; but as it is made payable by the party on whose behalf they may have been summoned, it may perhaps be inferred that such was the intention of the Commission.

By the two sections above mentioned, it is provided that the batta to be allowed to members of punchayets and to witnesses shall be at the rate of from one anna to a quarter of a rupee per diem, according to their situation in life; but it is not stated whether the Moonsiff, or any one else, is to be vested with authority to determine the rate of batta to be allowed in these cases. The Court conclude, that it was intended to vest the Moonsiff with this authority.

Section 29 provides that "the amount of the institution fee, the batta to "members of the punchayet and to witnesses, and of any necessary charge for "paper, shall be specified in the district punchayet's decree, and shall be paid "by the party cast."

That the amount of batta to members of the punchayet should be paid by the party cast was provided before, and therefore need not be repeated. But if the Court have conjectured rightly, that the Commission intended to vest the district Moonsiff with the power of determining the rate of batta to be paid to each witness and to each member of the punchayet, and to place the collection and disbursement of the amount under his superintendance and control, it would seem more regular that he should certify, on the back of the decree, the particulars which, by the section under consideration, the punchayet are required to insert in the body of it.

REGULATION V.

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This Regulation is entitled a "Regulation for the appointment of the Hindoo law officers of the zillah courts to be Sudder Aumeens, or head referees, "for the trial of referred causes, to the amount or value of three hundred "Arcot rupees."

Section 9, Regulation VII. of 1809, authorized the appointment of a Sudder Aumeen, or head native Commissioner, in any zillah wherein such appointment might appear advisable, for the trial of suits referred to him by the zillah Judge, for personal or real property not exceeding in amount or value one hundred Arcot rupees; and Regulation X. of 1809 constituted the Mahomedan and Hindoo law officers of the zillah Courts to be Sudder Aumeens, or head native Commissioners, *ex officio*, and made farther provision for the appointment of head native Commissioners in the several zillahs.

Section 2 of the third Regulation proposed by the Commission, rescinded, as was observed in the Court's remarks on that Regulation, all the existing enactments respecting Sudder Aumeens; and in this Regulation they have not provided for the appointment of any head native Commissioners in addition to the Hindoo law officers of the provincial Courts, and the Mahomedan and Hindoo law officers of the zillah Courts; nor have they provided for the recall of the sunnuds which have been granted under Section 9, Regulation X. of 1809. The Court know not what are the intentions of the Commission; but they recommend that the sunnuds of the Sudder Aumeens, appointed under the sections above quoted, be recalled and cancelled, and that other sunnuds be granted to them; and that the provincial court, on the representation of the zillah Judge, be empowered to authorize the appointment of Sudder Aumeens, in addition to the law officers of the zillah court, in any Zillah where such appointment may appear expedient.

The Court doubt the expediency of appointing the Hindoo law officers of the provincial courts to be Sudder Aumeens. The benefit of such appointment is confined to one zillah of each division; and in cases of appeal from his decree, a reference to the law officers of the Sudder court will be necessary on all points of law, which reference must always tend to retard the final decision of the suit. It appears to be farther objectionable, as rendering the Hindoo law officer of the provincial courts, in some respects, subject to the authority of the Zillah Judge.

It can scarcely be necessary to point out, that the title prefixed to this Regulation is objectionable, as leading to the inference that the Mahomedan and Hindoo law officers of the Zillah Courts did not before hold the situation of Sudder Aumeen.

The Mahomedan and Hindoo law officers of the Zillah courts, and the Hindoo law officers of the provincial courts, being constituted Sudder Aumeens *ex officio*, it does not appear necessary to administer to them the oath prescribed by Section 4 of the draft now under consideration; but if it should be deemed requisite to take a special oath from these officers, the Court would recommend a modification of the form contained in Appendix No. 1, which is copied from the form No. 8. of the Appendix to the Bengal Regulation 23 of 1814, and is applicable to persons entrusted with the performance of duties in addition to the trial and decision of referred cases, and not provided for in the Regulation proposed by the Commission. The Court are of opinion, that the duties in question might, with considerable advantage, be intrusted to the Sudder Aumeens officiating in the several zillahs under this presidency; and that the Zillah Judges, whenever the adjustment of accounts regarding the execution of decrees and mercantile or revenue transactions, or the investigation of disputes between landlord and tenant, or of other special matters of account, fact, or usage, may be requisite, should be authorized to refer such matters to the Sudder Aumeens for adjustment or investigation and report, under the rules and restrictions specified in Sections 76 and 77, Bengal Regulation XXIII. of 1814.

The draft now under consideration is chiefly composed of extracts from the Bengal Regulation XXIII. of 1814, from which the third Regulation proposed

proposed by the Commission was taken. But several of the provisions contained in the Bengal Regulation being omitted, and the proposed enactments respecting the office of Sudder Aumeens being disjoined from those regarding Moonsiffs, the draft is, in many respects, defective; for the rules which are to regulate the proceedings of the Sudder Aumeens in the trial and decision of original suits and appeals, reference is made to the provisions enacted for the guidance of the Zillah Courts in such cases, and thus by far the greater and most important part of the enactments which it deeply concerns the Sudder Aumeens to know, must be looked for in other Regulations. The draft is further defective, in not providing for cases in which the Sudder Aumeens may be guilty of gross partiality or corruption, or of other misconduct in the discharge of their duties.

As it is proposed to rescind the rules by which Sudder Aumeens have been hitherto guided in the trial and determination of causes, it is no doubt necessary either to enact new rules, or to declare enactments already made applicable to them in the discharge of their duty. To refer them to the rules prescribed for the guidance of the Zillah courts in the trial and determination of original suits, will be attended with inconvenience, as those rules are scattered through several Regulations; and it would be more convenient, and at the same time more conformable to the general principles of the code, to refer them to such sections of the third Regulation proposed by the Commission, as define the powers to be exercised by the district Moonsiffs in similar cases.

Nearly the same observations are applicable to the rules for trying and determining appeals. Instead of referring Sudder Aumeens to the rules prescribed for the Zillah courts in such cases, it would be better, in the opinion of the Court to refer them to such sections of the third Regulation as describe the mode of proceeding to be observed by the district Moonsiffs, in trying and determining appeals from the decisions of the village Moonsiffs.

REGULATION VI.

This Regulation, which is entitled a " Regulation for authorizing Collectors " of zillahs to refer for trial and decision by punchayet disputes respecting " the boundaries of villages," does not provide for the relative powers and duties of the Collector, the Moonsiff, and the punchayet, with sufficient clearness and precision.

The second section, which grants authority to the Collector to refer disputes respecting boundaries to a village or district punchayet, does not define whether the punchayet is to be formed by the Moonsiff in either case, or by the Collector.

By the third section it is declared, that in cases wherein one of the parties shall decline a reference to a village punchayet, and either of them shall claim a reference to a district punchayet, the Collector " shall refer the case to the " district Moonsiff, who shall cause it to be tried by a district punchayet, " under the provisions of Regulation IV. of 1815." It may be inferred, therefore, that the reference to the village punchayet was intended to be made in the same manner.

Section 4 prescribes that a copy of the decree of the village or district punchayet shall be sent to the Collector; but for what purpose, is not specified either in this or in any other section of the proposed Regulation. Section 5 empowers the Collector to annul the decree of the punchayet, in cases where gross partiality or corruption shall be proved; and perhaps it was intended that the decisions of the punchayets should, in all cases, be subject to the confirmation of the Collector, he being prohibited from setting aside their decisions, except in the cases abovementioned.

No provision is made for the punishment of members of punchayets, who shall be proved guilty of gross partiality and corruption; and the provision made, at the end of Section 5, that the decision of the second punchayet shall be final, is liable to serious objections. It is possible that the second punchayet may be as corrupt as the first, and in this case to carry their decree into execution would be to commit an act of injustice. The impunity held out by

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by a provision of this nature may also be considered likely to operate very powerfully towards relaxing the integrity of the second punchayet.

In the draft which the Court have prepared, they have endeavoured to provide for the same objects which the Commission appear to have had in view; but they have deemed it necessary to make the rules more detailed than those contained in the draft under consideration.

In concluding their remarks upon this Regulation, the Court have to observe that the Commission have omitted to provide for the case of a dispute regarding the boundaries of two villages, which may be situated in two different Collectorates. It would appear proper that the attention of the Commission should be called to this point.

To the foregoing detailed remarks, the Court are desirous of adding a few general observations, chiefly for the purpose of bringing to the notice of the Right Honourable the Governor in Council some essential points, in which, as it appears to them, the plan of internal administration proposed by the Commission, differs from the plan prescribed by the Honourable Court of Directors.

The first great difference is with regard to the person who is to be constituted the village Judge. The Honourable Court propose, that the Potail shall, by virtue of his office, execute the functions of Commissioner within his village ; and the proposition is grounded on the immunities and privileges which the Potail enjoys, and the peculiar qualifications for adjudicating village disputes, which he is supposed to derive from the nature of his office.

The Commission, in their first Regulation, provide that the renter or collector of the rents or revenue, and not the Potail, shall be the Moonsiff of the village ; and this provision, independently of its being directly at variance with the plan contemplated by the Honourable Court, is liable to very serious objections.

If the renter of the village collects his dues himself, his profits are to be derived not merely from his own labour (supposing him to be engaged in cultivation), but also from the labour of all the cultivating classes of the village. It is scarcely to be supposed, that a man so situated can be uninterested in any thing that passes in the village ; still less can impatiality be expected from the hireling employed to collect the dues of the Zemindar or farmer of the revenue. He can hardly be expected to possess that spirit of integrity which shall reject the profit of illicit gain. He will too frequently, it is to be feared, make his profits by relaxations of his master's rights to be purchased by the cultivators ; and the best customer will doubtless be most in favour with him on all occasions, even should he be free from pique and resentment against those who are the least complying.

Again, the situation of renter or collector of the rents is not permanent in one person. A lease, supposing it to be perpetual, must be liable to be sold on the farmer's failing to pay his rent ; and the very circumstance of a man's giving more attention to settling justly the differences of his neighbours than to his own concerns, might be the cause of his being ousted from the farm, by virtue of which he exercised his judicial authority. But it is unnecessary to look to so remote a contingency. It is well known, that long leases are decidedly discountenanced, and there is nothing to prevent a Collector from farming every succeeding lease with a different person ; and if the judicial office go with the farm, the Court see no reason to doubt that it will be regarded as a part of the farm, and that the most will be made of it.

The agent employed to collect the produce of the farm is still less secure in his situation than the renter. Caprice in the renter may furnish the village with a new Judge every month. It cannot be necessary to dwell on the evil consequences which must result from this frequent transfer of judicial authority from one person to another.

To the respectability of the judicial character probity is indispensably requisite; but how is it possible to guard against profligate persons becoming renters.

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ters, or against the employment of such persons as collectors of the rents? It is not proposed to make the upright discharge of the duties of village Moonsiff one of the obligations of the lease; and if it were, such a proposition would be impracticable. Whatever care might be taken by the Collectors, in the districts not permanently settled, to admit only such renters as bear a respectable private character, it is obvious that, in other districts, Zemindars could not be restricted in their choice of renters, nor could the renters, in any case, be restricted in their choice of agents.

It is scarcely necessary to remark, that the renter or collector of the rents of a village, *merely* as such, does not possess the immunities and privileges, nor any of those qualifications, which are supposed by the Court of Directors to render a Potail peculiarly fitted for the exercise of judicial functions within his village.

It cannot be concealed, that many of the objections which occur to vesting judicial power in the renter of a village, as proposed by the Commission, are equally applicable to entrusting such power to the Potail. The office of Potail is not elective, and unhappily integrity and talents are not hereditary.

The next point, in which the system proposed by the Commission differs from that of the Honourable Court, is the exemption from all superintendence and control which the village Judge is to enjoy. The village Moonsiff is not to be bound by the obligations of an oath, nor is he subject to be called to account for his conduct, except on charges of gross partiality and corruption. For cases of negligence and incapacity, and of any misconduct short of gross partiality and corruption, no provision is made; and even for gross partiality and corruption, the only punishment provided is the levy of a fine, not exceeding three times the amount of the bribe proved to have been received. Thus, then, under the Regulations proposed by the Commission, the renter or collector of the rents, who whatever may be his character or his talents, becomes the Moonsiff of the village, retains that authority so long as he is the renter or collector of the rents, although he may in a hundred instances be proved most grossly venal, or utterly unable, from ignorance and stupidity, to discharge the duties entrusted to him.

It is not easy to conceive the morals of any people to be so perfect as to admit of a man's being entrusted with judicial power, if he be not at the same time made responsible for the uprightness of his proceedings; and the Court of Directors, so far from proposing that the Potail, in his judicial capacity, shall be independent of all control, look particularly to the exercise of a vigilant and active superintendence and control over these lower judicatories, as the means of preventing a recurrence of the serious and formidable abuses, which are acknowledged to have prevailed in the later periods of the native administration.

The mode in which the Honourable Court intended that this superintendance and control should be exercised, does not apppear; but it is sufficiently manifest, that the best exertions of the Company's European servants can be but of little avail, unless some provision be made for inflicting an adequate punishment upon a Moonsiff, who shall be guilty of any aggravated act of misconduct. For such offences dismissal from office readily presents itself, as a proper, and perhaps the only adequate punishment. If this officer be not removable for aggravated misconduct, there is evidently not the smallest security for a faithful discharge of his duty, nor any protection to the inhabitants of his village from continued oppression. But how will this punishment operate under a law which declares the Potail, or the renter or collector of the rents, to be Moonsiff *ex officio?* The Potail may be deprived of his office, of its immunities, and its privileges, and the office may be conferred on his heir : but by these means the administration of justice will come to be confided to the hands of a minor, or must be temporarily intrusted to a person selected to officiate for him. The renter and the collector of the rents may be deprived of the office of Moonsiff, but of the situation by virtue of which they hold that office they cannot be deprived, and some person, not being the renter or collector of the rents, must be selected to perform the duties of Moonsiff.

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On the other hand, however, it is a matter for serious consideration, whether dismissal from his office and the consequent deprivation of the privileges and immunities attached to it, would not be an excessive punishment to a Potail, for malversation in the discharge of his judicial duties.

If the performance of judicial duties be not beyond all manner of doubt and controversy, included among the conditions of the Potail's tenure, it would be an act of oppression to impose it upon him now, making him at the same time liable to the deprivation of all his immunities for malversation in the discharge of them; and even if it has always been considered as forming a part of his municipal obligations, yet if it has not, within his recollection at least, been rigorously exacted from him, if a failure in the discharge of these duties has never, within his knowledge, been visited by the forfeiture of the privileges annexed to his office, whatever may be the state of the case, a punishment to the extent above-mentioned might be deemed to operate with too much severity.

Colonel Munro, as quoted by the Court of Directors, describes every village with its twelve Ayengandeas as " a little republic, with the Potail at the head of " it. The inhabitants, during war, look chiefly to their own Potail. They give " themselves no trouble about the breaking up and division of Kingdoms. " While the village is entire, they care not to what power it is transferred: " wherever it goes, the internal management of it remains unaltered. The " Potail is still the Collector and Magistrate and head farmer." If this description be correct, either the British Government must have caused a gross and violent disturbance of the municipal administration, beyond what was experienced under former conquerors, or else the internal management of the villages remains unaltered, and any Regulations concerning it must be at the best unnecessary. And if every village has been deprived of its municipal institutions, and has made no complaint of the deprivation, the inference is, that those institutions have either been lost so long as to be forgotten, or they have, from whatever cause, ceased to be desirable. The act, therefore, by which Potails may be now called upon to discharge judicial functions, will be regarded as an imposition of new duties, and not as a revival of the former institutions of the country; or it will be considered as the renewal of obligations, which none of the parties concerned wished to have renewed.

All these considerations tend to shew the difficulty of providing duly and efficiently for the office of village Judge, in the manner proposed. If it were proposed to constitute the Potail or the renter a referee and arbitrator merely, to try such causes as might be referred to him by the Zillah Judge, or by the consent of both parties, the evil consequences of exemption from the punishment of dismissal would not be so formidable. To a village referee or arbitrator, whose profligacy or incapacity had been ascertained, the Zillah Judge would not refer causes for decision, nor would parties agree to appoint him arbitrator between them. The authority of a referee and arbitrator must lie dormant, unless it be called into action by the Zillah Judge, or by the voluntary agreement of both parties in a suit. But the authority of a Moonsiff is of a very different nature. On a complaint being preferred to him, he is empowered and required to summon the opposite party, to fine him for non-attendance, to attach his property, &c. &c.; and how easily a power of this sort may be converted into an engine of oppression by a bad man subject to no control, how easily it may be employed to purposes of personal revenge, and to the gratification of private malignity, is sufficiently obvious.

But whether the Potail, as proposed by the Court of Directors, or the renter and collector of the rents, as proposed by the Commission, be declared the village Judge, it is indispensably necessary, for the purpose of maintaining the purity and respectability of the inferior judicatories, that for partiality and corruption at least, if not for other aggravated acts of misconduct, the offender should be made liable to be dismissed from the office of Moonsiff.

The next point in which the plan of the Court of Directors and that of the Commission differ, is with respect to the nature and extent of the jurisdiction to be exercised by the village Judge. The Court of Directors propose, that the Potail shall execute the functions of Commissioner within his village, in the several

several modes prescribed by the existing Regulations, viz. as moonsiff, referee, and arbitrator; but the Commission have made no provision for the village Judge to act as referee. Farther, it does not appear to have been the intention of the Honourable Court, that the village Judge should have jurisdiction in cases of real property. They state expressly, that as referee the Potail should be "subject to the same limitations as to the amount litigated, and generally "speaking, to the same rules as are prescribed for native Commissioners acting "in this capacity." This would exclude cases of real property from the cognizance of the village Judge acting as referee; and if that jurisdiction be denied to him when acting in a capacity wherein he is, to a certain extent, placed under the superintendence and control of the Zillah Judge, it would be inconsistent to vest him with it in cases wherein he is subject to less control. Indeed, the propriety of intrusting suits for real property, particularly for hereditary landed property, to the adjudication of a village Moonsiff, appears to be extremely doubtful. Suits of this nature often involve questions of great difficulty, which it can hardly be expected that he should be competent to determine. The Commission, it is true, have provided that the village Judge shall have the aid of the law officers of the Zillah Courts to decide any question of Hindoo or Mahommedan law, which may arise in the investigation of such cases; but to enable the law officer to give a correct legal opinion, it is necessary that the circumstances of the case should be stated, with a precision which it would be in vain to look for from the village Judge, whether the proposition of the Court of Directors, or that of the Commission, with regard to the person who shall fill that office, be adopted. It is unnecessary to dwell on the great evils which must result, both individually and generally, from incorrect judgments in cases of inheritance or succession to landed property.

It may be proper to mention, that in Bengal the jurisdiction of Moonsiffs, who are there selected on account of their character and talents, is confined to suits for personal property, and it would appear safer to delay investing the village Moonsiffs acting in these provinces with a higher jurisdiction, until at least trial has been made of the manner in which they discharge a trust of minor importance. Their jurisdiction may hereafter be easily extended, if it should be considered expedient to extend it.

The Commission have provided, in the third section of the first Regulation, that when any doubt may arise as to the person who is to be considered the head of the village, the Collector shall select a person and grant him a pottah, declaring him to be the head of the village. Why the appointment of the village Moonsiff should, in these cases, rest with the Collector, is not at all apparent, unless it be intended that considerations connected with the revenue shall always operate, when such appointment may become necessary. The district Moonsiff is to be nominated by the zillah Judge, and confirmed by the provincial court; and it would seem more consistent, if similar provisions were made applicable to the office of village Moonsiff.

It appears to have been the intention of the Court of Directors to leave it entirely to the option of the native inhabitants to have recourse to these lower judicatories or to the zillah courts; but Section 14 of the first Regulation proposed by the Commission provides that the plaintiff shall prefer his complaint to the Moonsiff of the village in which the defendant may reside; and there is no clause declaratory of to the plaintiff's possessing an option of resorting, in the first instance, to the zillah court. Whether it was intended by the Commission to allow or withhold the object in question, the Court know not; but under the proposed Regulation it may be doubted, whether in cases cognizable by the village Moonsiffs, a plaintiff will consider himself entitled to prefer his complaint to the zillah court, or whether the Zillah Judge will deem himself authorized to receive it. The Court beg leave to recommend, that the attention of the Commission be called to this point.

It has been shown, that whether the Potail or the renter, or collector of the rents be constituted the village Judge, the office must, in very many cases, be filled by selection. The Court are disposed to believe, that this mode of appointing to the office might be adopted in all cases with considerable advantage, and that a judicious selection of persons to discharge the duties of village Moonsiff would accomplish the object which the Court of Directors appear to have

Report of Sudder Adawlut, 21 Dec. 1815.

have principally in view, of readily dispensing justice to the natives, by means of agents taken from among themselves, while it would secure the employment only of men of respectable character, in situations wherein respectability of character is so indispensably requisite.

It would always be in the power of the Zillah Judges, and it might be made their special duty, to select those persons for the judicial office, whom the general opinion of the inhabitants, manifested by voluntary references, should point out as the best qualified to decide on the disputes between them.

The Court, however, would not propose that a Moonsiff should be appointed to every village. The population of many villages may be so small as not to require the constant presence of a judicial officer; but in a circle of from ten to twenty miles, it may be expected that there will be very generally a population sufficiently numerous to employ a native Court. The several zillahs might be subdivided into circles of this description, and an individual of respectable talents and character might be appointed to exercise judicial functions within each of them.

The Court considering the Commission as acting under special instructions, have not deemed themselves at liberty to deviate, in any essential point, from the principles on which the proposed Regulations appear to have been framed: in preparing their redrafts, therefore, the Court have confined themselves to such modifications and additions, as seemed absolutely necessary for the attainment of the objects which the Commission had in view. The wording and the arrangement of the several clauses will be found to be different, the drafts prepared by the Commission appearing, in both these respects, to be extremely defective; so defective, indeed, as in some instances to leave their intention very doubtful.

In submitting their re-drafts, however, the Court would not be understood as recommending that they should be enacted in their present state. They have endeavoured to shew wherein they consider many of the most material provisions objectionable, and they do not venture to hope that they have succeeded in digesting properly, from the materials before them, a system so extensive in its operation and so important in its consequences.

(A true extract.)

W. OLIVER,
Register.

MINUTE *of the* THIRD JUDGE,

Dated the 31st January 1816.

Minute of Third Judge. 31 January 1816.

THE Acting Third Judge delivers in the following minute on the Court's proceedings of the 21st December 1815.

The Court's re-draft of the Regulation for transferring the superintendence of the police from the Magistrates to the Collectors of the zillahs, was only put into my hands, for the first time, on the 29th instant. I observe that Section 79 of the Commissioners' draft, which prescribes that "no order shall be "issued to any police officer, excepting by, or through the Collector of the "zillah," has been omitted by the Court in their re-draft. The reasons assigned by the Court for this omission are, "If the Collector be constituted "Magistrate, there can be no necessity for this provision; and if he be not "constituted Magistrate, there can be no objection to the Magistrate issuing "his warrant to a particular officer, and to all whom it may concern."

The Right Honourable the Governor in Council having been pleased to signify to the Commission, through Mr. Secretary Hill, under date 13th May last, his desire "that no time should be lost in transferring to the Collector "the exercise of the whole of the duties of the police," the Commission, with a view to make his authority respected, and to render the police under the Collectors more efficient, were induced, by their draft of the Police Regulation, to place the police establishment entirely under their controul, as the only certain means of preventing all collision and clashing of authorities between

Minute of Third Judge. 31 Jan. 1816.

tween the Collectors, as Superintendents of Police, and the Magistrates of their respective zillahs. Were the Magistrate to issue his warrant direct to any police Officer, without the intervention of the Superintendent of Police, the consequence would be, that the servants of the police would consider themselves under two masters, and be the less efficient. The Honourable Court of Directors observe,* " To place, therefore, the superintendence of the revenue and of the police in the hands of separate individuals, must necessarily produce a collision and clashing of authorities between them in the exercise of their respective functions; for both must mainly rest in the agency of the village officers, who being equally at the call of either, their services may be required at the same instant by both. This, while it must distract the subordinate agents, must in some degree affect the operations of the Magistrate and of the Collector;" and this, I apprehend, will still be the case, if the Magistrate be allowed to issue his warrant direct " to a particular police officer, and to all whom it may concern," without the intervention of the Superintendent of Police. On these grounds, I am induced to bring to the immediate notice of Government, the Court's omission of so important a section, vesting the exclusive controul of the Police in the Collectors, on which the efficiency of the new system of police will, in the opinion of the Commission, so greatly depend.

I propose now to offer a few explanations and observations, which the Court's detailed remarks in their proceedings of the 21st December naturally suggest.

Commissioners' Draft.

Section 10. Heads of villages are authorized to receive information of murders, robberies, and other heinous offences, committed in any village within the limits of the district, or tehsildarry, to which they belong; and they shall send immediately information, either to the head of the village in which the crime was committed, or to the Tehsildar.

On this section the Court observe, " the object of this provision is not very clear. Information furnished by the head of one village to another, or to the Tehsildar of the division, cannot be evidence, and cannot afford ground for taking any other measures, in the first instance, than such as are calculated to discover whether the crime of which such information is given has been actually committed."

The Court have precisely stated the object of the provision, which appears clear enough to my apprehension, it being to afford ground for taking such measures, in the first instance, as are calculated to discover whether the crime of which such information is given has been actually committed. On these grounds, so correctly stated by the Court, I am of opinion that the section should be restored.

Commissioners' Draft.

Section 13. Heads of villages, upon receiving information in writing, signed by the informer, of stolen property concealed in any place within their jurisdiction, shall cause search to be made and the property if found to be seized. But should the place of concealment be a dwelling-house, the search shall be made only between sun-rise and sun-set.

On this section the Court observe: " This appears too exclusive a power to delegate to a village police officer, and might be made a most vexatious instrument of village tyranny." The Court further state it as their opinion, " that nothing but a warrant from a Magistrate should authorize the search of a house;" and they therefore recommend that the section be omitted. But how am I to reconcile this opinion of the Court with the provision I find in Section 36 of their re-draft, prescribing " where Tehsildars may have credible information of stolen property being concealed, and there may be reasons to apprehend that it will be made away with, unless prompt measures be taken to secure it, they shall cause search to be made, and the property if found to be secured and forwarded, with the offender, to the Magistrate. If the place of concealment be a dwelling-house, the search shall be made only between sun-rise and sun-set." The case here stated might arise in a village under the eye of the head of the village, where the Tehsildar and the Collector might be fifty miles from the spot. Why should the power to search a house be given to a Tehsildar and not to the head of a village, since the Court, in their remarks on Section 44, observe, without any exception, " the less that is left to the discretion of a native officer, in the present state of morals in India, the less room will there be for abuse"?

In the case of the head of the village as a police officer, the Court, apprehensive of an abuse of his power, record their opinion, that nothing but a warrant

* Vide Letter from the Court of Directors, dated 29th April 1814, paragraph 90.

Minute of Third Judge, 31 January 1816.

rant from a Magistrate should authorize the search of a house, as it might be made a most vexatious instrument of village tyranny; but in the case of the Tehsildar, the Court give him the power to search any house without the intervention of the Magistrate, notwithstanding it might be made a most vexatious instrument of district tyranny, conceiving the head of the village is likely to be as trust-worthy as the Tehsildar, and as both are made responsible "for "extortion, oppression, or other abuse of authority." I recommend, for the greater efficiency of the police, that the power in question be alike vested in both.

Commissioners' Draft.

Section 34. They shall be aided in the discharge of their police duties by an establishment of Peshkars, Gomastas, and Peons; but this establishment, together with that of the Revenue, shall be considered as one and the whole, as applicable equally to police or revenue purposes.

On this section the Court observe: "It is to be inferred, that in addition to the establishment of Peshkars, "Gomastas, and Peons, already employed under Tehsildars, another establishment is to be entertained. This, "however, is at variance with the views of the Court of "Directors, who appear to have considered that the present establishment of revenue servants would be sufficient to discharge the duties devolving to them on the "transfer of the police to the Collector."

On this the Honourable Court of Directors express themselves as follows.* "The services which will be rendered to the Magistrates by the police, when "placed on the footing we have described, and made to form an immediate "branch of our system of Government, will, we are satisfied, enable you not "only to reduce the greater part of the present Darogah establishment, but also "effect a considerable reduction of the police corps still maintained by your "Government at a heavy expense, and which nothing but the inefficient con-"dition of the civil police could have justified, to the extent to which they "have been employed."

The Court again observe:† "As to the additional expense that would at-"tend the execution of the measure in question, which you have also alledged "as a reason against its adoption, we are sanguine in the expectation that an "efficient village police, placed under the immediate superintendence of the "Collector, would so greatly improve the internal order and quiet of the "country, that as we have already observed, the services of the Darogah estab-"lishments and of the police corps, which are maintained in some parts of the "country at no small charge, might be gradually dispensed with."

The Honourable Court of Directors, it is evident by these extracts, look to a gradual saving, by the union of the police and revenue establishments; but it does not appear that they consider "that the present establishment of re-"venue servants would be sufficient to discharge the duties devolving to "them on the transfer of the police to the Collectors." The Commission are of opinion, that an establishment of Peshkars, Gomastas, and Peons, taken from the present police establishment, should be attached to the Tehsildars, in aid of their police duties; and they observe, in the 38th paragraph of their report to Government of the 15th July, "We propose that the police and re-"venue Peons shall no longer form a separate establishment, but be incor-"porated with each other, and be employed in both duties without distinc-"tion. This will enable the Collectors to conduct the business of both de-"partments with a smaller number, and to effect some saving." I deem it my duty here to record this expectation of some saving entertained by the Commission, as from the Court's observations it might be inferred, an additional charge is likely to be incurred, beyond the present revenue and police establishments, on the transfer of the police to the Collectors.

Commissioners' Draft.

Section 73. The Collector, and under his orders the Tehsildars and heads of villages, shall have authority to prevent the forcible occupation or seizure of lands or crops, and also when riotous assemblages are formed, in consequence of disputes re-

This section, the Court observe, "provides no rule for "the guidance of the authority to which it entrusts the "interlocutory decision in claims to the occupancy of "lands. They might have been cultivated for ages by "one family in succession, or have undergone a thousand "transfers by sale, gift, or other mode of transfer, and the "agitation of a claim to them would be sufficient, under "this

* Vide Letter from the Court of Directors, dated 29th April 1814, paragraph 85.

† Ditto, paragraph 94.

specting the right of ploughing any particular fields, to determine who shall plough them for the present, in order that cultivation may not be impeded by the land being kept uncultivated, while the trial which the parties may seek is depending. But in all the cases specified in this section, the parties shall be at liberty to seek redress from the village or district punchayets, or other competent jurisdiction.

" this section, to warrant the Collector or his Officers to " transfer the lands to the claimant, until it should be de- " termined by a punchayet, or other competent jurisdic- " tion, that such transfer was contrary to justice."

Minute of Third Judge, 31 January 1816.

From this interpretation of the section, it is evident the Court have misunderstood the intentions of the Commission. I do not, however, think the section would warrant any one acting on it in the manner stated by the Court. The section is, on the contrary, intended to aid the provisions of Regulation XXXII of 1802, " *to prevent the forcible occupation or seizure of lands or* " *crops;*" and when riotous assemblages are formed, in consequence of disputes respecting the right of ploughing any particular fields, when it is left to the Collector to determine who shall plough them for the present, is meant the occupant, since the Collector and his officers are required, in such cases, to prevent the forcible occupation or seizure of lands or crops. I therefore recommend, for the greater efficiency of the police, that the section should be restored, modified as follows.

" The Collector, and under his orders, the Tehsildars and heads of villages, " shall have authority to prevent the forcible occupation or seizure of lands or " crops; and when riotous assemblages are formed, in consequence of such " disputes respecting the right of ploughing any particular fields, to determine " the occupant or occupants who shall plough them for the present, in order " that cultivation may not be impeded, by the land being kept uncultivated " while the trial which the parties may seek is depending. But, in all the " cases specified in this section, the parties shall be at liberty to seek redress " from the village or district punchayets or other competent jurisdiction."

Commissioners' Draft.

Section 80. Collectors are empowered to entrust to their Assistants all the police authority vested in themselves by this Regulation, or such part of it as they may deem expedient.

The Court observe on this section, "That the Collector " is no where required to take the oath under which a " Magistrate discharges his duties. In the subdivision of " authority, or the delegation of it to an Assistant, the " same inattention to public obligations is shewn." The Court have, therefore, in their re-draft, prescribed oaths of office to the Collectors as Superintendents of Police, and to their assistants.

As the Court are of opinion, " that the less that is left to the discretion of a " native officer, in the present state of morals in India, the less room will there " be for abuse," it would have been consistent, when they prescribed oaths of office to the Collectors and to their Assistants, to prescribe them, in like manner, to the Zemindars, Tehsildars, Cutwalls, Aumeens, and heads of villages, forming subdivisions of authority under them. But the Commission having entire confidence in the European authorities, and in respect to the Natives deeming the incessant recourse to oaths since the establishment of the zillah courts has tended to weaken their effect, were induced to omit them in their draft without any distinction.

(Signed) GEORGE STRATTON,
Acting Third Judge.

31st January 1816.

SECRETARY

SECETARY *to* MADRAS GOVERNMENT *to* SECRETARY *at the* INDIA HOUSE,

Dated 29*th June* 1816.

To James Cobb, Esq. Secretary at the India House.

Letter from Mr. Hill, Madras, 29 June 1816.

SIR:

I am directed to request that you will lay before the Honourable the Court of Directors the accompanying extract from the proceedings of the Governor in Council in this department, under date the 17th ultimo, together with the different papers * therein referred to.

I have the honour to be, Sir,
Your most obedient humble servant,
(Signed) D. HILL,
Secretary to Government.

Fort St. George, 29th June 1816.

MINUTES OF COUNCIL,

Dated 17*th May* 1816.

Minutes of Council, 17 May 1816.

The following papers are recorded, according to their respective dates:

1st. Letter from the Commission for revising the judicial system, bearing date the 20th of April.

2d. The several revised drafts of Regulations submitted with the foregoing letter.

3d. The minute of the Right Honourable the President, bearing date the 25th of April.

4th. The minute of Mr. Fullerton, bearing date the 27th of April.

5th. The minute of Mr. Alexander, bearing date the 29th of April.

(Here enter.)

The President now submits to the Board the following minute, bearing date the 14th of May, together with the draft of a further minute of Mr. Fullerton's, and the memorandum marked A, which are therein referred to.

(Here enter.)

The Board having taken into their consideration the four propositions contained in the President's foregoing minute, and their sentiments on the first of those propositions not being unanimous, the vote is called, when Mr. Alexander and Mr. Fullerton dissent from that proposition, but the Commander-in-chief and the President concur in adopting it.

It is accordingly resolved, *First,* That the Regulations submitted with the letter from the Commission, bearing date the 20th of April, be passed, with the amendments as stated in memorandum A. *Secondly,* That the Regulations be returned to the Commissioners, with directions to insert the amendments contained in the memorandum A, and to forward them in that shape to the Superintendent of the Government press. *Thirdly,* That orders be sent to the Superintendent of the Government press to print the Regulations in communication with the Commissioners, and to send them the proof sheets for revision and the correction of errors. *Fourthly,* That in section 2 of the Police Regulation, the blank left for the insertion of the date of transfer of the police to the Collectors be filled up with the words "11th of July 1816;" but that it be left competent to the Government to postpone the transfer, on a recommendation to that effect by the Commissioners.

It

* Regulations and minutes of the members of Council relative to the new judicial system.

Minutes of Council, 17 May 1816.

It is further resolved, That the whole of the papers recorded in these proceedings, together with Mr. Fullerton's minute, bearing date the 1st ultimo, and with a further minute explanatory of that resolution, whereon a difference of opinion subsists in the Board, which the President intimates his intention of recording at a future date, be communicated, for the information of the Honourable the Court of Directors and for that of the Supreme Government respectively.

(A true extract.)

(Signed) D. HILL,
Secretary to Government.

MINUTE *of* ROBERT FULLERTON, *Esq.*
Dated the 1*st January* 1816.

Mr. Fullerton's Minute, 1 Jan. 1816.

This letter* contains the views and directions of the Honourable Court on the subject of certain intended modifications in the rules for the administration of justice in these provinces. The first part of this letter descants generally on the heavy expense attending the judicial system, on the number of causes undecided, and on the presumed inapplicability of the system itself to the tempers and habits of the natives. In support of the latter opinion, quotations are made from Sir Henry Strachey, Colonels Leith, Munro, Wilks, and Malcolm, all intended to shew that justice would be better administered by Potails and Punchayets, which practice we are now directed to admit as a part of our system of judicature. The latter paragraphs of the letter contain directions in respect to the establishment of the original system of police, under the municipal officers of the villages, to be superintended by Collectors and Tehsildars.

2. Before I proceed further, it will not, I trust, be considered improper to say something in respect to the quotations above alluded to, the more especially as they seem to have been in a great measure the inducing cause of the proposed alterations. Of these, one only comes from a practical judicial servant, and one certainly of known ability, Sir H. Strachey. It must, however, be observed, that individual opinions against systems founded on long and established principles ought always to be received with extreme caution, however able the individual expressing them may be. No system under heaven is perfect: defects will occasionally appear even in the best, and some one of those defects invariably become the theme of individual discussion; for how easy it is to find out the fault, but how difficult to devise the remedy without disturbing the whole system. In the detail of partial objections, the due consideration of general advantage is often overlooked: but the reasoning of Sir H. Strachey, if admitted as conclusive, certainly proves too much; for, according to his reasoning, no European can ever be qualified to administer justice to natives. I have myself sat in a court of justice, and I confess I never felt involved in the embarrassment which he describes, nor have I ever heard it complained of by others in the same line. That familiar knowledge of the language of natives resulting from domestic intercourse we may probably never attain; their habits, custom, and religion, preclude all such intercourse with Europeans: but the language of complaint, of debtor and creditor, of receipt and disbursement, of contract and engagement, is very clear: and it must be held in view, that plain and simple matter of fact is all that judicial evidence generally comprehends. It is only in the transaction of public business that European servants hold intercourse with natives; but such intercourse, with only a moderate knowledge of their language at its commencement, must, in common course, afford to any person of reasonable ability quite insight enough into the native character to judge of their complaints.

3. Of the opinions of the military gentlemen who have written on the civil judicature of India, it may be observed that those opinions were written either before the introduction of the Judicial system, or at a very early period after; and as none resulted from practical information, they ought rather to be considered as mere speculative reasoning on the probable effects of an intended system

* Letter from Court of Directors, dated 29th April 1814.

Mr. Fullerton's Minute, 1 Jan. 1816.

tem (the practical operation of which the writers had no means of observing), than assumed as decisive authorities for alterations so many years after its institution. To explain how imperfectly even the best of those (Colonel Munro) was acquainted with the nature and rules of the Judicial system, I quote the following extract from one of his reports; and I am induced to quote it, from having good reason to believe that higher authorities in England have been misled by it. Against the judicial system Colonel Munro adduces the following reasoning:—

" In the Ceded Districts, unless there is some modification of the process of " recovering debts from the Ryots, it will be productive of great distress to " them, and of considerable detriment to the public revenue. Almost every " Ryot has an account with a Bazar-man and a balance against him. This ac- " count often runs through two or three generations, and is rarely paid off en- " tirely. It usually originates in a small advance by the Bazar-man, who pro- " bably gives seventy or eighty rupees, and takes a bond for a hundred, with " interest at two and a half per cent. monthly. The Ryot, in return, makes " payments in grain, cotton, and other articles, which are usually valued against " him, and he receives occasionally from the Bazar-man small sums for the " discharge of his kists. After going on in this way for a number of years, the " Ryot finds that, though he is continually paying, he is only getting deeper " into debt. He is satisfied that he has paid as much or more than he ought " to have done, though, from his ignorance of accounts, he cannot exactly ex- " plain the particulars, because he does not know how to calculate interest " upon his own repayments in kind; he therefore stops payment, and begins to " deal with another Bazar-man. He is protected against distraint of his cattle " and grain by the officers of the native Government for the sale of revenue: " but if he carries any part of the produce of his land to a neighbouring village " for sale, he is detained by his creditor, and he then applies for a punchayet. " The punchayet goes back, as far as possible, into the dealings of the parties, " values the Ryot's commodities at a fair price, allows him interest upon the " amount, and should a balance still remain against him, directs him to pay it, " but if none, cancels the bond or other vouchers of the creditor. It does not " consider a claim as valid merely because it is founded upon a recent bond, " because it knows that a Ryot, who is in immediate want of a small advance " of cash, will come to a settlement of accounts, and *acknowledge a balance of* " *which not one-tenth is fairly due*. This was the process which usually took " place between the Ryot and his creditor in the Ceded Districts, under both " the native and the Company's Government, before the introduction of the " Judicial system. But now *the creditor has only to produce a recent bond, or* " *an old one that has been in a train of payment: an order for distraint instantly* " *follows*, and a Ryot who has always paid, and would all his life pay a rent of " one or two hundred rupees, is at once stripped of his cattle grain, and imple- " ments of husbandry, and will most likely never again rise above the rank of " a common labourer. The Judicial code, in this instance, supports the most " artful against the most simple class of the inhabitants; for it gives to the cre- " ditor a power of distraint, which he neither had nor looked for at the time the " debt was contracted."

4. Now the whole of the above reasoning is founded in complete misapprehension of the process of a zillah court. That court would not, under the Regulation, pass an order of distraint on the *mere production of a bond*. The court is bound to hear the defendant; and if the bond was stated to have been discharged, in whole or in part, he would be allowed to prove the payment. Zillah courts are not courts of law only, but of equity also. They are not to pass judgment on production of bonds or instruments, but to *hear the evidence of both parties, and give judgment according to justice and right*. They are not, indeed, courts of law at all, according to the term used in England: they are bound by law only in matters of caste or inheritance, marriage or religious institution, and then by the law of the parties, Hindoo or Mahomedan. The case alluded to by Colonel Munro is exactly one provided for in Regulation XXI, A. D. 1802. The court would first recommend arbitration, that is a punchayet; and if the parties agreed, the settlement would proceed in the old way; if they did not, the Sheristadar of the court, like the Master in Equity, would

would make up the account under directions of the court, disputed items would be examined, the balances adjusted, a decree passed, and the bond cancelled. In reply to the arguments of Colonel Munro, the Board of Revenue observed, that the evils would be rectified by the court's pursuing an equitable, rather than a legal jurisdiction. The Board of Revenue, in their observation, are perfectly correct, the Courts, zillah, provincial, and sudder, proceeding in all cases, where no specified rule may exist, according to *justice, equity, and good conscience.*

5. The general reasoning of Colonel Munro seems intended to support the administration of justice by Potails and Punchayets, as a system of itself superior to that lately introduced. I am fully persuaded the real advantage of the punchayet mode of administering justice was, that at the time it prevailed there existed no other. If a man had not a punchayet to settle his cause, he obtained no settlement at all. Punchayets are not, however, excluded from our system of judicature: all cases of account are, by Regulation XXI, recommended to be so adjusted, and what is a punchayet but an arbitration. It is perfectly within my own knowledge, that no inducement is ever spared to prevail on parties to submit such cases to arbitration; and for reasons too obvious to require remark, to save the court the tedious process of investigating an intricate account. In very few instances are parties brought to accede to arbitration; and when they are, the award generally gives rise to a suit intricate in itself, and preceded by a harassing investigation as to the existence of partiality and corruption, the proof of which can alone admit appeal from it.

6. That the employment of punchayets may have been the practice best suited for the times and circumstances under which those military authorities have written, I do not dispute. Where men lent money without bond or receipt, or gave the bond for more than was received, or having giving it repaid it without getting the bond back; when written engagements were unknown, and each depended on the other's verbal promise; it must be admitted a punchayet of the village, who, from proximity to the litigant parties, were themselves personally acquainted with the transaction, was the best calculated to decide. A mode of decision, however, not resulting from the common course of evidence or voucher for or against, but from personal knowledge of facts in the breast of the judge; a system which, however calculated to adjust the petty disputes of a village, can form no ground for a general system of judicature in a great commercial country. But it may well be asked, if it be expedient or reasonable that such a state of confusion should continue. The case quoted by Colonel Munro is surely an argument rather in favour of, than against the existing judicial establishment. The Banyan cheats the Ryot as much as he can, because the Ryot's property is protected from sale for regular payment, for fear of Government losing revenue. A strict conformity to such rude and barbarous practices, tending to obstruct the progress of improvement and civilisation, to keep the general administration of justice secondary and subservient to the collection of revenue, is surely not desirable by the Government nor just to the people. When men find that a note or bond is the best legal acknowledgment of a debt, regular receipt the best proof of its discharge, and a written agreement the best voucher for a thing to be done, they will conform to the practice so obviously advantageous: the lender will require the bond, the payer the receipt, and the contracting parties the written obligation. Regularity in dealings and accounts will unquestionably lead to facility of decision, and ultimately to the prevention of disputes; to discourage fraud and false evidence, and promote the first object of good laws, the general amelioration of the morals of the people.

7. The retrospective operations of the Judicial system did certainly, at the outset, embarrass the courts. They were called upon to decide suits originating as far as twelve years back. Besides the over pressure from numbers, the cause of action was involved in all the confusion and uncertainty inseparable from the state of anarchy we have just described. It would, probably, have been better, had the retroactive operation been limited to a few years, and preceding disputes been left to be decided by the same irregular course of justice under which they arose. The remark of Colonel Munro is, in this respect, just. The lender certainly does obtain a security he did not contemplate, viz. a regular court to enforce payment; but he loses the usurious interest the want of

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that security produced, for the court would allow only twelve per cent. I cannot entirely acquiesce in the reasoning of Colonel Munro, where he ascribes the careless dealings of natives to a reciprocal confidence in each other's integrity. I am afraid something must also be laid to the side of premeditated evasion: while no written voucher is forthcoming, each reserves to himself the right of putting his own construction on their transactions and verbal agreements, and also of making up his accounts in his own way.

8. But in judging of the state of things in the days of punchayet practice, I am not bound to the opinion of others. I have myself been twenty-six years in the country, and have spent the most of them in the provinces; I have seen the country under the old as well as the new regime; I have had the means of personal observation, and have been in public stations called upon to exercise judicial powers. I well remember the state of anarchy that preceded the introduction of the Judicial system, the inefficiency of punchayet or arbitration, and the extreme difficulty of getting an award from arbitrators, even when they were once assembled, and the still greater difficulty of enforcing it when given. It was easy, indeed, to get rid of a cause by reference to punchayet. It was usual to keep lists of the principal inhabitants: each party chose two, and the public officers added one; but here ended all appearance of regularity. What followed was a course of dispute, bribery, and intrigue, wrangling and contention, which effectually obstructed decision, giving more trouble to the person acting as judge, and less satisfaction to the parties, than if he had settled the cause himself.

9. The collection of revenue has invariably been the ruling passion of an Indian government. Up to the year 1802, collection of revenue and provision of investment comprehended the whole acknowledged functions of the Government of Madras: the administration of justice, civil or criminal, was, as it ever will be, subservient while united to revenue or any other executive duties. The pure administration can only be depended on while executed by a distinct department. Under the antient system, no Aumildar, Thannadar, or even Collector, would enforce process against a party for a private debt, if the party had public revenue to pay, lest the payment of the first should endanger the latter; and it is perfectly within my recollection, that it was a common practice for a man to engage in some petty rent, to save himself from the importunities of private creditors. This principle is, indeed, the essence of Colonel Munro's reasoning on the case of the Ryot and Banyan. The revenue would lose the benefit of the Ryot's cultivation, if he were made to pay his just debts by a sale of effects.

10. To the fifteenth paragraph of the Honourable Court's letter it may be remarked, that an European Judge must, at the outset, labour under difficulty and disadvantage. The remark is applicable to the commencement of the system, and it must be admitted that, at the outset, many errors were committed. Men were necessarily appointed without previous practice and study: many are now perfect, although it must be admitted misconception and irregularity have not yet entirely ceased. But the judicial is now become a regular department. Young men well grounded in the native languages at the College, passing through the subordinate branches, it may reasonably be supposed will, in twelve years, with all the advantage of numerous decisions and precedent, be capable of presiding in a court. Temporary difficulty must attend the commencement of every undertaking, but that difficulty furnishes no just ground against a system radically good, and intended for permanency. The fear of misconception, and its consequent evil of dependence on the officers of the court, are, I trust, without cause. The evil is prevented by the formality of the process directed; the pleadings and evidence are all written and all well considered before the decree is given; the grounds of the decree are to be clearly stated, and must be supported by the record, every deposition and exhibit being expressly mentioned and referred to: unless, therefore, we suppose gross falsifications or mutilation of record, the evil can scarcely occur.

11. The remark of the Honourable Court is applicable to the executive, rather than the judicial department. In the former the public officer, the Collector for instance, is the sole guardian of the public interest. The private and

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and personal views of the people and his servants accord in deceiving him; but, in the latter, there are two parties before him: he cannot be misled to the favouring of one without prejudice to the other. An open court, public record, and gradation of appeal, form a complete check to the evil apprehended.

12. The practice of recording is, indeed, the very safeguard of justice, and except in the petty causes tried by judicatories below the Register's court, cannot safely be dispensed with. The recording of evidence is the sole check against perjury If the words of a native witness in a cause of property were not taken down, there would be no end to perjury. It cannot be doubted that, if justice were carried on off hand, if I may use the expression, by oral and unrecorded testimony, its course would be considerably accelerated; but such a course might leave an opening for that very misconception and mistake in the Judge which the Honourable Court contemplate. It would produce utter indifference in the witness whether he spoke true or false, and would certainly destroy much of that confidence now reposed in the decision of the courts; for the present process, though less rapid, carries with it conviction to those concerned, that their cause has been fully heard, deliberately considered, and finally decided when arrived at the last resort.

13. The course when detailed in the Regulations may appear tedious and prolix; but it must be remembered, that it would require many words to prescribe rules for carrying on the most common occurrences of life, which in practice proceed on with sufficient rapidity.

14. The sixteenth paragraph conveys the strongest animadversions on the judicial system, for it contemplates not merely delay and inconvenience, but the absolute perversion of justice. It is much to be lamented, that such an opinion should be entertained by so high an authority; but there is only one way to solve the doubts of the Honourable Court, and that is, by directing a certain number of the records of each court to be translated and sent home: the course of proceedings, the justice or otherwise of the decree, will be ascertained beyond dispute.

15. In respect to form, a law-suit must, in the nature of things, proceed much the same in all countries: the complaining party must be heard (plaint), the defendant must answer, and in many cases, though not in all, perhaps the reply and rejoinder are necessary to the clear understanding of the case: each party must also be allowed to produce his evidence and written documents to support his assertions. What more proceedings do the Regulations require? and what less would afford the litigants the means of shewing their case? I confess, when I hear a comparison made between the forms of our courts, and those of the law-courts in England, adduced as reasoning against our system, when I at the same time look into Jacob's Law Dictionary, and there see the variety of forms, of terms, and fictions of the law, it excites my astonishment that such a comparison should be advanced! That our forms were new, and perhaps not immediately understood, cannot be denied; but in 1802 the administration of justice was in itself the great novelty. Those forms are now familiar and understood by the people, and I confess I cannot see how they could be simplified. It does indeed appear, that the replication and rejoinder might be spared; but as the intervening time allowed is only to the next court day between answer and replication, and the rejoinder is filed the same day with the replication, little time is lost, and the means of explanation afforded by the replication may in the end shorten the suit.

16. That the process has extended itself beyond this, I believe; but this unnecessary extension is attributable rather to want of attention in the Judges, than the provisions of the regulations. Supplemental pleadings are allowable only in cases of obvious inadvertence or mistake, the correction of which is indispensible to the ends of justice. The admission of motions by pleaders for further witnesses in the course of a suit is another source of delay in decision, by leading away from the first grounds of action, and protracting the course of the suit; but the remedy for these must be found in the attention of the Judges, and not in the new provisions of the Regulations.

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17. The quotations of Colonel Munro's that follow, of the inconveniences resulting to head inhabitants, were, I doubt not, when made, well founded; but it must be recollected, that these inconveniencies, like many others much dwelt upon, could exist only at the first institution and imperfect state of the system. The extension of native judicatories would effectually do away the necessity of the great body of the people being called to the zillah court, for the system contemplates a native Commissioner in every twenty square miles; but we are authorized by Colonel Munro himself to consider the objection of little consequence, for in a report dated 13th May 1815 he remarks as follows:

" Long journies and absence from home are not in this country regarded " in the same serious light as in Europe. The natives, both from their own " manners and the nature of the climate, are enabled to make journies of one " hundred and fifty or two hundred miles, at little or no expence, and with " hardly any inconvenience. The Ryots, in particular, except during the " sowing and reaping seasons, think nothing of coming a hundred miles with " a complaint, though the matter in dispute does not probably amount to two " rupees." The evils detailed by the Collector of South Arcot, if I recollect right, are intended as arguments against the triennial rent, then introduced, and can be rectified only by vesting the Collectors with summary judicial powers in certain revenue cases, in the manner detailed in another place.

18. To another objection, that of native pleaders, the same arguments must apply as to the Judges on first nomination, they cannot be expected to be very expert. It will, in due course, become a study. As to wilful abuse there is an inherent counteraction, the rivalry of the pleaders. Ability will, in that capacity, ensure employ, as it does in any other profession; but every measure of reform one way brings with it an evil on the other side. If pleaders were dispensed with, the public would not be subject to the tricks surmised by Colonel Leith, but parties would be put to the inconvenience of attending throughout the suit and pleading for themselves. Regulation X, A. D. 1802, guards the public, as far as possible, from abuse in this respect. It makes the Vakeels liable to dismissal and prosecution for abuse, it authorizes a party in a suit to change his pleader on any stage of it, and lastly, it authorizes every man to plead his own cause if he chooses. Human foresight and precaution can do no more.

19. The right of a party to plead his own cause carries in itself a radical remedy against abuse, and at the same time affords much better means of judging of the expediency of the Vakeel system than any reasoning can convey. The employment of Vakeels while people may plead themselves, establishes the fact, that a preference is now given to professional pleaders; but that preference the community are at liberty to withdraw, if they find practical evil predominate, and the expense and tricks of the pleaders outweigh the trouble of personal pleading.

20. Of the number of causes standing on the file, and the consequent appearance of inadequacy of the system to meet the demands of the people, much has been said in every discussion that has taken place; but I am quite at a loss to judge how far the conclusion is correct. That the aggregate number of causes in the file is great we must all admit, but so is the number of causes actually decided. If the number of the latter keep pace with the former, the presumption must be, that the supply of justice keeps pace with the demand of the country. At the rate of decision, 32,246* causes per annum, the number on the file, 20,138, is little more than six months work. In an extensive territory,

* This is the number settled during 1814 and on the 1st January 1815.

In 1815.

By the commissioners	21,571
By razeenamah	9,116
	30,687
By Judges and Registers	8,528
	38,615†

† Original.

tory, containing a great population, many law-suits will always exist. It is not the aggregate number of suits, but the proportion they bear to the population and property, that must be considered; and, in this respect, we can judge only from comparison with other countries, a comparison which I do not find has been made by others, and which I have no means of making for myself. The appeal to law must, however, in the common course of things, be excessive at first. In the early periods of a settled form of justice every thing is disputed; but a long course of regular administration settles rights and principles which are by general assent admitted in society, and it is only cases of doubt that then come before the courts. It must here be remarked, that the causes of action are in an Indian community infinite, in comparison with those of Europe; the minute subdivision of landed property, rents of a few pagodas a year involving the same disputes as one of a thousand. In like manner, trade is conducted by innumerable petty dealers, and the stock of fifty rupees gives rise to the same question of partnership, brokerage, bills of exchange, bargains, and obligations, as the trade of a great mercantile house, not to mention questions of inheritance and division.

21. That delay will, however, in some cases unavoidably occur, I admit. There is but one Judge in each zillah, and if he is sick the business is at a stand, and arrears must accumulate: it is on this account, principally, that the continuance of Assistant Judges has been found indispensable. The fact is, that the court were overpowered by arrears at their first establishment. For many years preceding that period, the administration of justice cannot be said to have existed, and the pressure of suits in those very districts where the punchayet practice is stated by its greatest advocates to have prevailed, is a certain proof of its utter inadequateness and inefficiency of itself for the distribution of justice. The establishment of the courts opened the door so long closed, and the retrospective operation twelve years back may literally be said to have brought twelve years' work at once on the Judges. At the time, too, when want of practice would of itself have retarded their operations, the tattered cadjans and old accounts of every family were raked up, all through the country, to establish suits, while just claims were at the same time resisted, in order to try the chance of a law-suit in defence. No costs were demandable in the first instances: those payable, the pleader's fees five per cent., were not called for until the close of the suit. The institution and other fees prescribed by Regulations V. and XVII. A. D. 1808, unquestionably relieved the courts of the litigious matter brought upon them at the outset. The Honourable Court seem to think that those fees preclude the just claimants from having recourse to the courts. From my own observation, for at that time I was attached to a provincial court, I do not believe one appeal was allowed to drop on that occasion that had the slightest prospect of favourable issue, and many were allowed to stand on hopeless grounds. I am satisfied, indeed, that the existing fees never will prevent an application from any person whose cause is in any way promising, for they are all recoverable from the losing party at the close of the suit; but what confirms me further in this opinion is, the observation I have made in respect to the Supreme Court. The regular fees there are far beyond those of the provincial courts, besides the demand of attornies, who, in respect to natives, never act *without cash in advance;* yet there is no apparent backwardness in natives of Madras resorting on all occasions to that court.

22. The necessity of an exhibit fee must be apparent to every one who ever had a record of a native suit before him: the mass of irrelevant matter that would otherwise intrude itself can be effectually excluded only by the demand of a heavy fee for admission. But, in regard to fees generally, the privilege of pleading *in formâ pauperis,* which the courts must, in cases of real distress, allow, removes the only serious objections. The gratuitous administration of justice is beautiful in theory but impossible in practice. Costs of suits impose the fair punishment on him who will not pay his just debts, or will assert unjust claims to what does not belong to him: the payment of costs is provided for by the Hindoo law itself.

23. It has been observed, that a constant and pervading exercise of powers of superintendance and controul is the sphere of action in which the Company's

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pany's European servants can be most beneficially employed; and, alluding to the expediency of leaving the administration of justice to the natives, reserving the superintendance and controul to the European servant, I entreat a reference to the number of causes now decided by natives, and beg to know whether the administration of justice be not, even now, generally committed to natives, and whether the superintendance and controul over jurisdictions, operative to such extent, could be efficiently conducted with fewer European servants than a Judge and Register. Those who imagine that superintendance and controul could be exercised by Collectors, know little of the labouring duties already imposed on them. The system we are now pursuing is, indeed, a practical demonstration of the very theory adduced by the Honourable Court, carried, under native Commissioners, just as far perhaps as can be done with safety, if indeed it be carried to such an extent as to defeat the powers of superintendance. We may fairly ask, if the native officers of the courts, and the Vakeels, under the very eye of the Judge, practise those frauds surmised by the Honourable Court, what would the scene be under a host of native Judges, deciding without appeal, or with no other superintendance than that of a Collector, at the same time employed in the collection of six lacks of pagodas revenue? There is, indeed, but one mode of superintending judicial proceedings with effect; a superior court, open to appeals against erroneous decisions, and complaints of irregularities and breach of the written regulations.

24. I have now considered, generally, the animadversion that has been made on the judicial system. I am satisfied that the objections hitherto urged against it arise either from want of clear comprehension of its principles, or from the effects of casual error and from imperfection unavoidable at its outset, want of skill and experience in those to whose lot it fell to commence its operations. We must be cautious not to lay to the fault of the system the errors, neglect, or supineness of judicial officers. It may be doubted whether the delay so much complained of is not, in some degree, attributable rather to personal neglect than the natural course of judicial proceedings. It must be admitted, that the Government have not that direct controul or means of detecting neglect and improper delay in the judicial, that exists in other departments. If the Collector fails in his duty, the failure of the revenue brings the fault to the notice of Government, and so with the Commercial Resident; but in the administration of justice, although ultimately of vital importance to the State as well as the Subject, delay is less perceptible, the immediate and apparent interest of Government are not so sensibly affected. The provisions of the code are now better and more generally understood by the people, and the officers of Government: the system has, in a certain degree, taken root, and I firmly believe is satisfactory to the great body of the people.

25. Some of the reasoning against the judicial system, in respect to native opinions, carries with it its own refutation. It is argued, that the people dislike it; and, at the same time, that the courts are overpowered with business. What should bring natives to the court if they did not like it? and is not their constant application to it a proof of their approbation? The system once understood could not fail to be satisfactory. The acts of public officers were formerly beyond the reach of redress, even in that branch, the revenue, on which, of all others, the peace and prosperity of the people is most nearly interested, and the same exemption extended to their inferior officers; the channel of complaint was shut, and too frequently open resistance was the first proof of grievance or dissatisfaction. That system, therefore, which rendered these acts cognizable by an independant authority accessible at all times, confers a benefit not likely to be understood; and however partial inconvenience may sometimes arise, the just and humane objects of the Government are duly appreciated by the body of the people. It must ever, therefore, be kept in view, that the separation of the executive and judicial, and disarming of the former of all arbitrary unlimited authority or power of decision in its own cause, and the guard and security thereby afforded to the people against unjust acts of executive officers, form the radical principle of the judicial system: modifications, therefore, however plausible they may appear in respect to promptness and celerity in the collection of revenue, or even in administering justice, which contravene this established principle, cannot

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not be safely admitted. That many arguments may still be adduced against the system cannot be denied; for it has many enemies, and those of a description most likely, as far as loudness goes, to make themselves heard. I allude to the whole host of cutcherry servants in every part of the country, whose undue authority is checked, and whose insolence is repressed by the intervention of courts of justice. If any public officer be set up to receive complaints against any system, he will seldom fail to find applicants. None make more use of the right of petitioning than the natives of India. In the game of law some must be losers, and every losing party will doubtless furnish an argument against that system under which he has lost his cause.

26. The executive habits of some of the European revenue officers lead them to view the system unfavourably. Aware of many practical advantages in a new acquired, and consequently unsettled country, that may be derived from active and direct exercise of uncontrolled authority, fretted by occasional difficulty from less ready obedience than they formerly met with, and conscious also of their own integrity and of the pure motives which guide them in its exercise, they are led to view the supremacy of the Judicial department, and its cognizance over them, as conveying a tacit reflection on themselves, without duly considering that a system of judicature must be general, that it is directed not against individuals but the general fallibility of man, and cannot admit in its contemplation individual excellence; that it is intended to guard the just rights, and contribute to the happiness of the people, and cannot therefore be sacrificed by a just government to partial facilities of collecting its own revenue. Many of the observations of the Honourable Court are general, and may be applied to every system of judicature. The administration of justice is admitted to be good in itself, but in all countries it brings with it perceptible evils and individual distress: multiplicity of forms, delay that operates tenfold inconvenience on the poor comparatively with the rich, the tricks and chicanery of lawyers, and a long train of evils that have called forth the general animadversion of mankind.

27. I cannot conclude this part of the subject without one remark, that however partial defects may have been found, it is certain that the territories under this presidency never enjoyed such a state of internal tranquillity as they have done since the introduction of the Judicial system. The peace and tranquillity of the country afford, surely, more certain grounds of judgment as to the applicability of any system, than the speculative opinions of men written many years ago, and evidently founded on a presumption which reason and humanity contradict, that the natives of India are not susceptible of the blessings of civil liberty, that they cannot do justice to themselves as subjects, but must, as servants, look to a master for protection, and must ever remain in that state of abject servitude and mental imbecility to which a long course of Musulman government had reduced them.

28. With a mind fully impressed with the conviction of the substantial benefits conferred on our subjects by the existing system of government, not insensible of its partial imperfections, but holding in mind the observation of a great moral writer, "that perfection is not attainable in human institutions, "that if good predominate it is all we can expect," I proceed to consider the modifications proposed.

29. The principal of those respecting the civil administration of justice consists in the jurisdiction intended to be vested in the village Potail, aided by a punchayet. However calculated for the adjustment of the petty disputes of a village, I cannot admit that any just conclusion can be drawn in favour of the punchayet from former practice, as a system of itself sufficient for the general administration of justice. A system, indeed, undefined by any regulation, without recorded rule of process in any one of its branches, the character of which depended entirely on the personal qualities of the public officer of the district, affords no ground whatever of forming any opinion, although the number of suits brought before the regular courts, the cause of action arising in districts, and exactly at those periods when the practice prevailed, seems to lead to the conclusion of its utter inefficiency. I am not prepared to assert that the punchayet, as described by the Honourable Court, may not, under written rules, and superintended by the judicial authorities of the

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country, enter with advantage as a subordinate part of our system. Although many circumstances may occur to prevent its success, it is worth the trial; and the alteration from the existing system is so immaterial in itself, that under proper check and control, I do not see any danger in the attempt. One advantage, if it succeed, must certainly attend its introduction: justice will be brought to the doors of the people, and if they are satisfied with the decision there, it will be a real blessing. But it does not appear that the decision of the Potail himself is to be final; on the other hand, the decision of the punchayet is appealable on proof of partiality or corruption: and here opens the door for litigation, extended as it is at present. Men's minds are always heated in a law-suit: seldom the losing party acquiesces, if there be an opening to try his chance in a superior court. The danger is, that as the means of litigating are brought nearer home, there will be more litigation, and appeals will be more frequent; that parties will often attempt to do away the decision of the punchayet, and hence the execution of the duty will be avoided. No creditable person will act willingly; he must know that one party will lose, and that one party, therefore, will probably do all he can to discredit his decision, and with it his general character: the consequeuce is likely to be, that a punchayet will at last be composed of persons making a trade of justice, or assembled by compulsion alone. Another circumstance induces me to doubt success; the personal qualities of the Potail in many parts of the country. I doubt if men will be found in all parts of the country fit for the office. On the whole, therefore, though I fully admit the benefit that would result, I am not sanguine in regard to the success: all I can say of it is, that the Honourable Court having so directed, the system ought to be fairly tried.

30. One of the objects in appointing Potails or head inhabitants to be Moonsiffs, is declared, in the preamble to one of the Regulations proposed by the commissioner, "to restore to the heads of villages and Curnums that consideration they formerly derived from the decision of such suits." The restoration of that consideration and authority brings with it the usual concomitant of authority vested in a native: temptation to abuse it. The head inhabitants have been denounced as the general oppressors of the inferior Ryots; and I have always understood that the introduction of the ryotwar, or individual settlement, had for its object the annihilation of that influence, leaving each Ryot to look up to the Collector alone. It may be doubted, whether the restoration of the power and consideration will not restore those very means of abuse. It may be doubted, indeed, whether the judicial and police authority, formerly vested in heads of villages, might not, in reality, have established that very influence which we found it not easy to remove. The danger of its restoration is the stronger, because the persons who are to act as village Moonsiffs, and at the head of the village police, are the renters, or generally the persons whom the village officers naturally obey. The separation of the functions, revenue and judicial, is the fundamental principle of the existing system; but here we are, in reality, uniting them in the lower order, the part perhaps where their unity is least to be trusted. It is not the mere adjudications of petty disputes by the head inhabitant that is dangerous, but the power necessary to be put in his hands, to enable him, as Moonsiff, to conduct his court.* The village police involves, in the first instance, all the civil power of the village. The order of the head man must, in the first instance, be obeyed: he has the power of punishment in his hands, both in the civil and criminal side; he can put in the stocks, he can fine, and lastly, he can put a man on the punchayet, which, judging from past observation, I am strongly disposed to think will be considered as a punishment. Redress against improper orders must be travelled for at expense and inconvenience. It is to be feared, from long-settled habit, that to a Potail, whether acting in the capacity of renter or in his proper function as a revenue officer, the administration of justice will be considered as a *public matter* of secondary consideration in comparison with the collection of revenue, *primary* only where self-interest is involved.

31. In former times no Zemindar, renter, or even Collector, would enforce process against an inhabitant for a private debt, if it endangered his collections: what

* For, in that capacity, his jurisdiction is compulsive over one party at least.

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what reason have we to expect other consequences, under similar arrangements and powers, in the hands of a description of people having a similar interest? Village Moonsiffs are precluded from settling causes in which they have an interest; but, in fact, they will have an interest in almost every case that can occur, in every one certainly where a Ryot is concerned. Will the Moonsiff compel payment of a debt by a Ryot, if that payment endanger his rent? It may be argued, that practical good may result from a partial deviation from principle. In this light we must view the judicial powers intended to be given to head inhabitants; but to the tendency to abuse we must oppose local check and control. I do not think the objections above stated sufficiently strong to prevent the experimental adoption of the measure, enjoined as it is by the Honourable Court; but they certainly afford strong reasons for placing the village Moonsiffs more directly under the control and superintendance of the zillah courts, than the Regulations of the Commission propose.

32. The Zillah Judge must be considered not merely as the adjudicator of civil suits to a certain amount, but the superintendent of judicial process throughout the zillah. Justice is the end in view, and judicial process is the means. He must have it in his power to detect error or abuse of process in every judicatory under his controul, and this he can only do effectually by having the appeal direct to him from all the lower courts. The appeal must come to him from the village as well as the district Moonsiff. It is not safe, in my opinion, to exclude European superintendence even in the decision of suits under ten rupees; and finality of decision by a native court ought not to be allowed. The sum is small, indeed; but no sum is beneath the notice of native corruption. Numbers of cases make up for smallness of individual amount. If appeal be open from village to district Moonsiff, and the latter decision be final, they will first extra-judicially correspond, and then collude. A systematic course of corruption will proceed; it cannot be said above the controul of the Judge, but untangibly beneath it. I am therefore clearly of opinion, that appeal should go from village and district Moonsiff to the zillah court, to be decided by the Judge himself, or by reference to his Register, so that every suit may, if parties require it, have the benefit of decision by one European judicatory. If suitors wish to have the advantage of a district punchayet, they can go at once to the district Moonsiff. Besides the means of check and control afforded by this course of appeal, it seems to me to be necessary with a view to general arrangement of appeal, as will hereafter be stated.*

33. The draft of the Commissioner's Regulation, I perceive, declares the village Moonsiffs only responsible to the zillah court in cases of corruption; but adverting to the powers conferred on the Moonsiff, it will be seen that many other means of abuse and of distressing the people are open, against all which a channel of obtaining redress should be open. The village, like the district Moonsiff, should be responsible to the zillah court for all acts done contrary to the Regulation. It will be recollected, that the Honourable Court, in proposing the more extended employment of natives in the administration of justice, depend for security against abuse in the vigilance and control of the European servant, and it is, therefore, essential to the system, that efficient means of control should be afforded.

34. The district Moonsiff is placed, in all respects, under the direct control of the Judge: he is, to all intents and purposes, a native head commissioner. But it seems to me that many other duties may be confided to him than the mere hearing of causes, whereby the course of justice might be accelerated and other courts relieved. Of these we may point out the following: to execute the duty within his range now done by the Nazir and Peons; to execute the duties of deputed Aumeens, such as ascertainment of boundaries and other local inquiries, the usages and local rates of land assessment or accounts of collections; executing decrees and sale of property, receiving fines, delivery of possession, ascertaining sufficiency of security or actual indigence of asserted paupers; and, above all, may be committed to him the taking of evidence in cases under

* Rather than admit appeal from village Moonsiff to district Moonsiff, it would be preferable to make the decision of the village Moonsiff final, as far as five rupees; that of the district Moonsiff final as far as ten rupees; excepting, however, on proof of gross partiality and corruption.

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under trial before superior courts by Commission; trial and report on matter of fact at any place in his neighbourhood, by simple interrogatories before the parties or by report; and generally, all matters requiring local investigation. The Moonsiff might, also, be employed in selling stamp-paper as agent for the Collector. A moderate fee on all the duties above described would place the Moonsiff above temptation, by making his allowances respectable.

35. In respect to limitation of appeals, the following appears to me to be the best principle that can be observed: it is that, indeed, that dictates the existing regulations regarding appeals.

1st. Every suitor should have the benefit of two decisions, one original, one in appeal (the latter before an European judicatory), where matter of fact only is involved, the amount at issue exceeding ten rupees.

2d. When decisions are founded on points of law or regulation, when they involve a principle of general import, such as between landlord and tenant, or when a question of great and general importance never before decided is considered, appeal should pass up to the highest court; but, in such appeals, care should be taken to prevent common matters of fact from passing up, and only the point of principle or particular importance should constitute the grounds of appeal. Every court is now directed to record the grounds of decision, with a view to the effectual operation of the principal of appeal here detailed. Particular attention might be enjoined to a careful discrimination between law and fact in their decrees. The petition of appeal should be attached to the copy of the decree, and furnished to the superior court. No pleadings need be admitted. If the grounds of the decree are found to turn on points of law, or principles of the Regulation, or cases of importance, and if the superior court consider those principles misapplied, or any part of the Regulations misconstrued, they should direct the revision of the decree, overruling the error in principle or construction, or in the latter case, of importance, admit a regular appeal; but in the two former cases, matters of fact are not to be touched, as they do not form the legal grounds of appeal.

3d. Appeal, as at present, must be open to the highest court against all irregularity of process, refusal to hear or dismission by default, by petition and summary process.

36. To apply the main principle of appeal, it will be necessary that all suits above five thousand rupees should continue to be brought first into the provincial courts. The decision will be by those courts in the first instance, and in the second by appeal to the Sudder court.

All suits below five thousand rupees should go to the zillah court. The decision will be first by that court, and secondly by the provincial court.

All suits not exceeding one thousand rupees may be referrable to the Register: the decision will be first by him, secondly by the Judge. The judicial powers of the Register are now limited to five hundred rupees, but I can see no good cause for not extending them; and it has the advantage that will be pointed out hereafter.

All suits below three hundred rupees may be referred to the Sudder Aumeen. The decision will be first by him; secondly by the Judge or Register, if the Judge thinks fit to refer appeals; and the decision will be final in either case.

All causes under two hundred rupees may be decided by the district Moonsiff in the first instance, with appeal to the Judge in suits exceeding ten rupees, referrable to the Register; and in either case decision final.

All causes under fifty rupees direct, or one hundred by punchayet, may be settled by the village Moonsiff first, and in appeal of above five rupees by the zillah Judge or Register if referred; and by either the decision may be final.

37. It is certainly desirable, that the Judge himself should try appeals from the native judicatories, instead of referring them to his Register; but it seems unadvisable to prescribe it by law, because the Judge may occasionally be pressed by other business, which makes the latitude necessary. It is true, the limitation is only on the side of excess. The courts cannot try beyond a cer-

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tain amount; but the Judge is not precluded from hearing causes of the smallest amount, and all suits tried by him would, under the principle here defined, pass up, whatever the amount, to the provincial court. He should be enjoined, therefore, as far as circumstances admit, to continue original cognizance to suits between one thousand and five thousand rupees, referring all below one thousand to the Register or inferior courts, taking cognizance only of suits under one thousand rupees, when there appears on the plaint *primâ facie* evidence of their being such as involve special matter, and would entitle to appeal to the higher courts. The advantage of this arragement is, that admitting to all suitors the double hearing if desired, the original limitation will be adhered to, no suit beyond one thousand rupees coming in common course beyond the zillah Judge. Those arrangements do not of course affect the decision by punchayet, except in so far as they become appealable, the appeal rising like others to the Judge.

38. Of the levying of fees I have, in a former part of this paper, given it as my opinion that it must be continued. The reasoning is, however, susceptible of some modification, with a view to the main object, the prevention of litigation rising up to the superior courts. In causes cognizable before the village Moonsiff only, the lower class of natives will be principally concerned, to whom the levy of fees might be inconvenient; it is proper, therefore, that such causes should be exempt from all demand whatever, in the shape of fees or stamps. Those cognizable by the district Moonsiff should be liable only to the institution fee and the stamp-paper: the institution fee, I say, on financial consideration, as it is the best means of remuneration to the Moonsiff. The main object of those native judicatories is the relief of the superior courts. Exemption from fees must be the inducement to have recourse to them; but wherever parties go direct, or by appeal to the superior courts, the suit should become liable to fees of every description, without reference to amount of suit.

39. As to abbreviation of process, it appears to me that the reply and rejoinder may be dispensed with in all judicatories under the Register's court, and in all appeals to any one of the courts. In cases of appeal, the petition and answer must contain the ground of appeal, and all that can be said against it: a reply and rejoinder are only useless additions to the record. The reply and rejoinder should be retained only in original suits tried by the Zillah Judge or Register, for the reasons already stated, that they take up but little additional time, and may, by the explanation they afford, accelerate decision.

40. The discontinuance of recording I consider most unadvisable: if that practice were given up, a general laxity of process and decision would ensue. I have already stated the practice as the safeguard of justice and check against perjury. Licensed Vakeels must, in my opinion, be continued: the balance of good predominates, and general inconvenience would result by bringing parties themselves into court on all occasions.

41. I come next to the police, the most important part of the discussion. Here, again, ample quotations are made from military authorities; but there surely was no necessity for resting on that evidence for the support of intended alterations. The inexpediency of the system of police under Darogahs and Tannadars appeared manifest at a very early period. A Committee was appointed in 1805 to consider of a general system of police, and their report contained an express recommendation to continue the antient system under head inhabitants, and the municipal village establishments, and to place the superintendence of the police under the Collector. The same sentiments, in regard to village-establishments, have been repeated in the report of the second Committee. The decision of the Supreme Government against the transfer of police to the Collector precluded the discussion of that measure by the second Committee. The stipendiary police Peons have, indeed, shewn themselves incapable of acting, but by the aid of the village people, and they have moreover proved a great annoyance to the inhabitants.

42. On the support of police duties it is argued by the Honourable Court, and has, indeed, been generally admitted by all who have ever considered the subject, first, that no system of police will be efficient, unless the subordinate duties be conducted by the Talliar or village watcher; secondly, that the Talliars or village

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watchers will act only with effect under the head inhabitants; thirdly, that the head inhabitants will act only willingly under the Aumildars and Collector. Hence it follows, by clear deduction of consequences, that the superintendence of the police ought to be under the Collector. The ubiquitary nature of the Collector's situation, the connection that has invariably subsisted between the revenue and police duties, which have, until of late, been executed by the same persons, point him out the fittest person for the office. The expediency of the transfer of police duties from Magistrates to the Collector has been dwelt upon at length by the first Committee of Police, in the year 1806: but here, like that Committee, I must draw the line between executive and judicial functions; for although it is admitted that the Collector can most advantageously perform the duties of police, it by no means follows that he should be the Magistrate, much less the sole Magistrate of the district. Police I consider to involve a duty entirely distinct from magisterial. It is, to all intents and purposes, in its nature executive, and although not absolutely incompatible with that of Magistrate, it had better be kept separate, for it necessarily involves acts against which appeal should be open to the Magistrate, by whom alone their propriety can be decided on. The establishment of such a degree of control and superintendence over the conduct of the people, as will tend to the prevention of crime, must be the first object of police; the next, when crimes have been committed, to secure the apprehension of the criminals, by a proper arrangement and distribution of its officers. It will then become the duty of the Superintendent of Police summarily to inquire whether the criminal charge be or be not well founded, and when it appears so, to cause the parties and the witnesses to be sent to the Magistrate.* The Magistrate is to judge and to determine the measure of punishment to the extent allowed him; or if the crime be such as to require punishment beyond his powers, it will be his duty to commit for trial before the superior tribunal, the court of circuit. The arrangement calculated for the prevention, next the detection of crime when committed, and the apprehension of criminals, I conceive to be the proper duties of the police: the trial and punishment are the duties of the Magistrate and court of circuit, in their respective gradations.

43. The influence of the head inhabitants, the subordination of the village officers, adapt themselves admirably to the superintendence of police, in its true sense and meaning, within their respective villages. They impose that general control, and convey that knowledge of individual character and conduct, which a good police so exactly requires: the suspicious are watched, and the guilty are detected. But so far this good is confined to the villages respectively; for however special the care taken of themselves, the inhabitants of one village will stand on no ceremony in buying for half-price what they know to have been stolen in another: hence petty pilfering and stealing is the great prevalent crime. Lambadies, Courchewars, and others passing for itinerant merchants, go about the country selling in one village what they have stolen in another; a general and pervading superintendence is therefore essential, and by none can that superintendence be so well conducted as by the Collector and his officers. The constant intercourse that must prevail between him and the inhabitants in general, aided by the municipal officers of villages, holds forth every prospect of establishing that preventive system, the grand object of police in all countries, the want of which appears to me the great cause of increase of crimes under the Bengal Government. There the internal village economy has been destroyed, the peace of the country is left to the guard of a stipendiary establishment, and the inhabitants seem to take little interest in it: all is magisterial that is consequential punishment, but there seems to exist no system of prevention.

44. The disadvantage and inconvenience likely to result from the disunion of revenue and police duties are stated in the Honourable Court's letters. It is there argued, that both duties having formerly been executed by the same persons, the separation is calculated to produce a clashing and collision of authority, and to paralize both. The whole of the reasoning expressly applies to

* The duties of magistrates are always confounded with those belonging to police, without considering that they are separate and distinct, and that the functions of those, to whom it ought to be assigned to conduct the police system, terminate the moment the exercise of the magisterial duties becomes necessary. (Colquhoun, Treatise on Indigence, page 82.)

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to the superintendence of police and revenue being in different hands: by the transfer of that of police to the Collector every object is attained. The whole native police establishments will be exclusively under his orders, and as regards police, there can be no objection to his employing his assistant as in the revenue department, and through him will pass all orders of the magistrate in the criminal side, or in which the police officers are to be employed. It has, I perceive, been argued, that unless the whole powers of the Magistrate be conferred on the Collector, he cannot execute with effect the duties of superintendence of police; but I confess I cannot discover the weight of the reasoning. If the appointment and dismission of officers of police rest with the Collector, to the same extent as they do in the Revenue department, his control over the one must be quite as efficient as over the other. The term magisterial has, indeed, a very extensive meaning; it applies to the Judge of the highest court, and the common Justice of the Peace. Some of the powers now held by the Magistrate must, of course, and *ex officio*, be vested in the Collector, as Superintendent of police; these are the powers of taking up, examining, and confining for a reasonable time pending examination: but I cannot see how the power of passing sentence on offenders when seized would add to the efficiency of his control over his subordinate police officers; or, to state it plainly, how the power of flogging a thief would make it easier to catch him.

45. The combination of police and revenue functions in the same servant is calculated to strengthen both, and to fulfil the ends of economy in view of the Honourable Court: but not one of those ends would be further promoted by the junction of revenue and magisterial duties. The transfer of the latter to the Collectors, it may be said, would relieve the Magistrate: but it is not the duties purely magisterial, that is, the hearing and punishment of offences, that fall so heavy on the Judge and Magistrate; it is the keeping of the peace of the country, and the numerous details of police thereto attached. The consequent necessity of employing people whose conduct he cannot personally control, of depending on reports he cannot locally examine; this, indeed, is the worst feature of the existing system of police under the direct control of the Magistrate. Instances may occur, in which the misconduct and misinformation of a police Darogah, not perceived by the Magistrate, would involve the whole district in confusion. Fixed at his court-house, the Magistrate cannot easily wield the engine of police, like one visiting it in all its parts, and able to apply a remedy to every local defect: relieved from that duty, the other duties would not be felt by the Magistrate. But, on the other hand, it seems to me obvious that the transfer of magisterial, as well as police duties, would considerably embarrass the Collector. It would still unite powers which, as I have already observed, had better be separate, and would impose on him functions perfectly distinct from those of revenue. It would impose on him the necessity of keeping regular calendars, of attending the Judge on circuit while at the station, of preparing the numerous documents to be laid before him, which on some occasions require the united aid of all the officers of the court: but, above all, it would directly infringe the radical principle on which the existing system is founded, and from which every practical good has resulted.

46. If the Collector be vested with the power of punishment, whether by fine, imprisonment, or stripes, there is too much reason to fear, if not its misapplication to executive purposes by Collectors themselves, at least an abuse in the native servants of that authoritative, that overwhelming influence which such power would undoubtedly create. The deprivation of all means of abuse may be considered a fixed principle, from which it is safest not to depart, the more especially as the deviation is not supported by any important object, for every practical advantage is attainable without going so far. Vesting in Collectors magisterial powers (i. e. the trial and punishment to a limited extent) would not accelerate the administration of the criminal law. He may, indeed, go round the country, but he can only be at one place at a time, and that place may be at one end of the district while a crime is committed at the other. Prisoner and witness would have as far to go, occasionally further, than now: moving about is useful as regards police, but the very reverse as regards Magisterial duties.

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47. The petty punishment proposed to be vested on the head inhabitant of the village has this advantage, that he is resident Magistrate of the village, and the effect is prompt; while the punishment by the Collector must, in most cases, be as distant as by the Magistrate. On an attentive perusal of paragraphs 73 to 98 of the Honourable Court's letter, it does not appear that the transfer of magisterial duties to the Collector is actually insisted on. Their intention as to the police seems clear; but although the other is suggested, it is mentioned as a thing rather proposed than positively directed, and ought, therefore, to be well considered before adopted. The Honourable Court, following the usual course of reasoning, seem to connect magisterial and police functions as a matter of course, without apparently considering that the separation is not only practicable but highly expedient. The only expression conveying the idea of such distinction will be found in paragraph 93, and the expression clearly infers that it is the union of revenue and police duties only on which their minds are made up. But if, as appears to me unquestionable, the foregoing militates against the expediency of making the Collector a Magistrate, still stronger does it hold against that officer being the sole Magistrate of the district.

48. If the magisterial functions be taken away from the office of Zillah Judge, if that officer has not the power of punishing for affrays arising under his own eye within the verge of his court, all respect to his station will be lost, and the judicial supremacy will be destroyed.

49. As regards abuse of power, it may be said that appeal will be open for civil damages to parties aggrieved by any act of police officers. But this is not enough; police officers, guilty of aggression or irregular acts, should be liable to criminal prosecution, to be carried on before the Magistrate and court of circuit, and to personal punishment as a public offence.

50. The Judge should continue to hold the sole magisterial powers, and the direct issue of his warrant should be admitted at the town where the court is situated, without passing through the Superintendant of Police. The charge of the jail is sufficient of itself to render the direct authority over the police and its officers, within the limit of the town, indispensable in the hands of the Judge and Magistrate; nor would this at all interfere with the village police system; for all towns where zillah courts are situated are too extensive for the operation of that system, and separate establishments are necessarily maintained.

51. Although all charges of crimes and offences would, in regular course, be brought first to the Superintendent of Police, or his assistant acting under his orders, yet an appeal should still be open to the Magistrate, in all cases where the Superintendent neglected to proceed, or improperly dismissed a complaint, or where there existed other sufficient reason for bringing the charge direct before the Magistrate, all process in the criminal side, and all orders to police officers arising from such appeal or charge, passing through the Superintendent of Police,*

52. In transferring the superintendance of police to the Collectors, the objects I understand to be, first, to enable them to keep the peace of the country, by means of the municipal officers of the village; secondly, to preclude the necessity of such officers receiving orders from any other authority, and thereby being disturbed in the execution of revenue duties.

53. It is not, I conclude, intended to make police, or the administration of the criminal law, subservient to the collection of revenue, to vest in the Collector such a degree of overwhelming authority as will enable him to dictate the terms of cultivation, to infringe on the personal liberty and the free exercise of the labour of the Ryot, and extort, by an organized system of compulsion, a revenue beyond the natural result of voluntary engagement. And, if my conclusion be correct, the charge of the police confers all legitimate means of giving full energy to the revenue system; but when we consider that the charge and control, and the means of employing police, involve, in the first instance, the actual exercise of the whole civil powers of the country, when we consider how that power has been formerly used in the administration of revenue, it will hardly be disputed that it is a charge not to be safely trusted, without an independent

* Omission in the original.

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pendent authority at hand to listen to complaints against its abuse. If, indeed, the permanent settlement had been generally made, or even village rents on a long lease, my argument would lose much of its force. The Collector's revenue dealings would, in such case, be confined to a higher order of natives, less likely to suffer from mistaken views of his power; but where the Collector and his servants, as in a ryotwar settlement, come once a year in direct collision with every Ryot in the country, the stocks and the rattan ought not certainly to be admitted as appendages to his office.

54. The question of the transfer of police to the Collector underwent the serious consideration of the first Police Committee, and was recommended only on the faith that the Collector, not being a Magistrate, could not abuse it. Even this transfer has been objected to by the Supreme Government, as a departure from the fundamental principles of the present constitution of Government. I do not consider the transfer of police to be such a departure, because I consider the police to be an executive, not a judicial duty, the abuse of which can be guarded against in the same way as the executive duty of revenue, by the magisterial powers being in other hands: but the transfer of magisterial duties to Collectors, also, I do certainly think must involve a departure from the fundamental principles of our Government; a departure that may go far to counteract the benefit of the judicial system, by arming the executive with too much power, and lessening that faith and confidence the people now begin to feel in the protection of the judicial department. In addition to the general arguments above stated, there exist other causes, more immediate and direct, against Collectors holding the full powers of Magistrates of districts, namely, that the existing Regulations declare certain offences against the revenue laws punishable by the Magistrate, as in Regulation I of 1808, and I of 1812. The revenues in question must either lose the benefit of these provisions, or the Collector, in his capacity of Magistrate, must decide in the case in which he, as a Revenue officer, is directly concerned. This argument will gain further strength, probably, on the enactment of a Regulation for the prevention of fraud and embezzlement of Revenue officers, under the general restoration of the ryotwar settlement; for without some law for the punishment of acts of bribery and corruption, done with a view to defraud the Government by concealing cultivation, &c. under that system, it appears to me the interests of Government, in the hands of a host of native servants, cannot be preserved.

55. Connected with the subject of police, it may be necessary to remark that the sea-ports where no magistrates or Collectors reside require particular notice. Those ports are, like all seaports in the world, crowded with the most disorderly class of people. Europeans, half-cast British subjects, and foreigners of all descriptions, run from their ships on shore while their vessels are repairing. It is absolutely necessary that some public officer of Government should have the means of exercising a certain degree of control over them. The police powers might be vested, at such places, with the Commercial Resident or Master-Attendant, acting under control of the Resident. Their powers, within certain limits, the port and environs, would be, in all respects, the same as that to be exercised by Collectors as superintendants of police: the Commercial Resident should also have power of taking up, or warning to depart, all unlicensed British subjects quitting their ships, according to the late act. Considering the great influx of foreigners that may be expected, in consequence of the restoration of peace, the necessity of a well organized system of police at the sea-ports must be obvious.

56. Before I close the subject of police, I must observe that I consider it a branch of our system that ought to be under the direct knowledge and inspection of the executive Government as a distinct department: placed under Magistrates, the control verges away to courts of circuit and foujdarry, as a part of the Judicial department. Superintendents of Police should, in this branch, correspond direct with Government. Policy requires that Government should have the means of obtaining direct information of internal transactions, that can come to their knowledge only through the means of an active and vigilant police. In placing the police under the Government, it will be held in mind that police, according to my view of it, involves only the maintenance of the peace as far as it depends on the discovery and apprehension of criminals; that the

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application of the law in the trial and punishment rests exclusively with the Judicial authorities.

57. In the discussion of police, it seems proper to correct a very erroneous impression that appears to be entertained regarding the expense.* Such, indeed, is the more necessary, as the error has been adopted by two of the Military authorities quoted by the Honourable Court. Colonel Wilks speaks of the new establishments of police on which large sums have been unnecessarily expended. Colonel Wilks had not the means of obtaining accurate information on the point he was discussing. The real sum exclusively applied to the maintenance of police is not one-fifth of that appropriated under the ancient system. The cavelly russooms fees, free lands in various parts of the country, amounted to little less than one-fifth of the revenue : most of them have been resumed by Government, which, by Regulation, took upon itself the performance of police duties. In some districts accounts of resumptions have been kept, and the original amount of police charges may still be traced ; in others they have been incorporated with the aggregate revenue, and are no longer distinguishable. The views of the late Police Committee† having been principally directed to economical arrangements, and the employment of the antient municipal officers of police having been an admitted part of the intended system, an attempt was made to trace the lands, fees, &c. resumed, as well as those still resumable for police purposes. From the best information procurable, it appeared that the whole sum ascertained to have been resumable, still resumable, and available for police purposes, amounted to Pagodas 3,70,473 per annum,‡ while the whole actual police establishment amounted to 1,96,737 22 54. The above was by the Committee proposed to be reduced to 1,23,442 22 40. From the sum of 3,70,473 deduction must, of course, be made, for the support of the Poligars and Peons unfit to serve ; but money or service Government have a right to require. An arrangement similar to that which took place in the jaghire is necessary. Minute inquiry and investigation was recommended to be conducted by the Collectors, under the authority of the Board of Revenue, but that duty now devolves on the Commission, to whom all police reports have been transferred ; and I consider it to be the essential object of their appointment. The reduction was intended by the Committee to be made by the abolition of Tannah stations, and the substitution of head inhabitants in their places. The talliar establishment, the efficient part of the system, having been found to have fallen into decay, many Talliars having little more than three rupees per annum, it was recommended to make up the allowance to three rupees per month ; and this increase is provided for within the proposed Pagodas 1,23,442 22 40. I confess it appears to me very doubtful whether this charge can be further reduced. Under the system proposed of employing the Revenue Aumildars as Darogahs, some expenses may be saved ; but it must be recollected that in districts permanently settled there are no Aumildars, and substitutes must be paid for, unless when it may be deemed safe to employ the Zemindars ; but very few, I apprehend, will be found fit to be trusted. It must be recollected, also, that the addition to the Aumildars' establishment will be necessary, or rather the retransfer of part originally attached to him and now employed by the Darogah. In like manner, the mauniums formerly held by the head inhabitants in settled countries, which were

* Result by Second Police Committee.

Total available resource, for police funds by account			3,70,473
President establishments			1,96,737
			1,73,736
Difference between actual........	1,96,737		
and			
Proposed........................	1,23,442	difference	73,295
		Surplus by this account......	2,47,031

† Vide appendix A, with their proceedings of the second Police Committee held at Madras, January 1814.

‡ A more correct statement of actual resumptions has been furnished by the report of the Board of Revenue, 21st December 1815, received 6th January 1816, entered on the latter part of this minute. It may be necessary to remark, that the arrangements for reductions here proposed were suspended, in consequence of the whole subject devolving to the Commission of which Colonel Muuro is president.

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were included in the assets of the Zemindarries, must now be restored to them, and a proportional remission must be made to the Zemindar. Government having formerly taken upon itself the execution of police duties, assumed the lands allowed to a certain class for its support: the duty being now returned to the head inhabitants, so probably must their mauniums or free lands.* Whether a charge of Pagodas 1,23,442 for keeping the peace of the country, yielding a gross revenue of Pagodas 1,17,00,000, be excessive, I cannot judge, for it is comparison alone that can decide the question.

58. It has also been remarked by Colonel Munro, that "by reverting to the "village institutions, an expensive police, which has been formed within these "few years, might be saved;" but, in reality the extensive police establishment alluded to was not then in existence, and has been formed only lately, and may be considered as temporary. A general system of police is yet a desideratum in the code. It is only in the jaghire that such is established, where the charge was amply met by resumptions of cavelly russooms; and in other districts the introduction of the Daragoh system has been partial only and temporary, for we are still discussing the question of its eligibility: but it is clear the charges are far within the resources available, and the execution of police has, in fact, though not in law, depended on the village municipality. It must be recollected, also, in judging of expense, that while the police was under the Collectors, large sibbendy establishments were kept up and paid out of the revenue, and entered as a revenue charge. In the Northern Circars for example, there were generally four sibbendy or revenue battalions kept up, involving an expense of upwards of 50,000 pagodas. Excepting four hundred at Ganjam, the whole of these corps have now been reduced, and the whole police charge of the Northern Circars, as proposed by the Committee, amounts to Pagodas 20,844. Guntoor being in this arrangement included in the zillah of Masulipatam, the note at the bottom will shew the actual police charges from the year 1790 to 1814.† The heavy charges for 1804, 1805, 1806, and 1807, did not arise from regular police establishment, but an ill judged mode of repelling irruptions of banditti from the Nizam's country. Two noted free-booters, Timrauze and Vencatarow, had been plundering the country for many years, taking refuge when pursued beyond the limits of our territories. Bodies of peons were hired at an enormous expense under the Magistrate, and to little purpose. These disturbances were at last terminated, as they might have been at first, by regular military force and political arrangement. The consent of the Nizam was obtained for the crossing of his boundaries, the plunderers were caught on his territories, one was executed, the other banished; many of their followers have been brought to justice before the courts of circuit. The police, including contingencies for the latter years, does not exceed Pagodas *Sic. orig.*

59. The fact is, that the former police expenses were included in revenue charges as sibbendy, and the present amount (reduced as it has been) being now brought to account as a judicial charge under the head of police, has led to that most erroneous idea, published by Colonels Wilks and Munro, that the charge is a new and distinct one, arising out of the judicial system; whereas, in fact, it is the mere transfer of a very small part of the sum originally expended by Government in the attempt to keep the peace of the country. I say the attempt, for a comparison between the present and past state of the country will fully justify the term. While the whole authority, both Revenue and Judicial, was vested in the Collector, while that authority was backed and supported

* A correct investigation and report on these points is essentially required from the Commission.

† Police and Sibbandy of the Northern Circars, in the years

Year	Pagodas	Year	Pagodas	Year	Pagodas
1790-1	Pagodas 53,031	1798-9	55,499	1806-7	90,378
1791-2	70,747	1799-1800	64,975	1807-8	70,624
1792-3	14,358	1800-1	70,260	1808-9	43,189
1793-4	3,414	1801-2	65,868	1809-10	31,128
1794-5	33,212	1802 3	53,000	1810-11	41,372
1795-6	55,207	1803-4	64,586	1811-12	27,809
1796-7	50,715	1804-5	70,215	1812-13	23,007
1797-8	45,146	1805 6	79,224	1813-14	24,264

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supported by immense establishments of armed sibbendy, the country displayed one continued scene of turbulence and confusion. Zemindars and Poligars, insulted or aggrieved by Dubashes and cutcherry servants, deprived of all means of representing their grievance except through the spurious channel from whence the grievance proceeded, had no resource but flying to arms, as the certain mode of procuring for them the notice of Government, and plundered the country in all directions. Compromise and pardon were too often thus obtained. Fixed rules, and a settled system, have since taken place of the wavering policy of individual opinion. While the civil courts of justice are open to hear every grievance committed by public officers of Government or by Zemindars, the criminal courts have gone their regular circuits; and under defined rules, and before the eyes of the people, offenders have been tried and brought to punishment.

60. The people begin to see the benefit of protection. The blind adherence to their Zemindars, that used to bring hundreds of armed men against the Government, is removed; the scene of plunder and violence no longer exists, and the country has gradually assumed the settled form of civil government. The advantages, therefore, contemplated only by the Honourable Court in the reduction of police corps, have in reality taken place. That commotions in some of the wild parts of the country do occasionally arise must be admitted; but such, adverting to the natural circumstances of those hilly regions, cannot be avoided.

61. Whether it was politic or expedient to place the savage inhabitants of the mountains under the jurisdiction of courts of justice, was certainly questionable. Where the circumstances are such as not to admit of even a military force acting in certain seasons, subjection and obedience to civil process by unarmed peons could hardly be expected. The Zemindars of those countries might have been useful tributaries, but it was thought doubtful if they could ever be made good subjects: an arrangement for tribute, and an agreement to keep the peace of their own country and give up offenders, seemed to many all that should have been required.

62. In the year 1802, the date of the introduction of the judicial system, this reasoning was used, and I confess was by myself considered applicable to all the hill zemindarries of the Northern Circars. It has not in practice been confirmed to the full extent. Those inconveniences that many anticipated have not been produced, and it is notorious that the inhabitants of those countries have improved much in order and civilization, by the gradual abolition of the personal influence of the Zemindars. Of this the late events in the Goomsoor zemindarry afford ademonstration. From 1798 to 1800, the Zemindar of that district found employment for two battalions of sepoys, plundered the country with some thousand armed men at his command: his son, in resisting the process of the Magistrate on charges of murder and various enormities, was abandoned on the proclamation of the court, and obliged to surrender himself without the possibility of resistance. To a very few districts the reasoning, perhaps, still applies, and even to those in a limited degree; and we must rely on the prudence of the Judge and Magistrate in not wantonly committing his authority to risk of contempt, by too abrupt execution, too scrupulous an adherence to fixed form. So few, however, are the districts in question, that no solid argument can be adduced against the general system as applicable to all other parts of the country.

63. The foregoing paragraph may appear a digression from the subject regularly before us; it is one, however, highly necessary to enter into, because the misapplication of authority and power of punishment, given in the criminal side, towards executive objects, is alike fatal to the security of the subject as the abuse of civil jurisdiction. The separation of executive and judicial, civil and criminal, forms the radical principle from which all the good has proceeded, and which must never be lost sight of in any new arrangements.

64. With respect to the vesting certain powers in the Zillah Judge on the criminal side, or as I should express it, extending the powers of the Magistrates of zillahs, it will be seen that by Section 12, Regulation IV, A. D. 1811, they should already possess nearly those powers. The difference is only twenty

rattans

rattans in corporal punishment and six months imprisonment in addition to a fine of two hundred rupees; six months imprisonment, by the existing rule, being held equivalent to the fine of two hundred rupees. There does not appear any objection to this extension; it may relieve the courts of circuit from the trial of petty offences.

65. I cannot see any necessity or advantage in associating the Collector with the Magistrate or Zillah Judge at the quarterly sessions. Such is unnecessary, the regular courts of circuit never failing in the completion of their circuits.

66. Against the execution of criminal sentences by courts of circuit, without reference to the sudder court, strong objections may be urged. The life of the prisoner might in many cases be affected. I believe it to be an established principle to give the prisoner the benefit of legal flaw or informality: this advantage they might lose by direct execution. Several cases occurred before myself on circuit, exactly applicable: on these occasions prisoners were found guilty, and kissaas declared by the law officer with the court of circuit. Of the guilt of the prisoners I entertain no doubt, and under execution without reference they must have suffered. The cases were referred, and the law officers of the Sudder Foujdaree Adawlut objected to the legality of the evidence, and acquitted the prisoners. Of their guilt there was no doubt, but they escaped under a different construction of Mahommedan law of evidence. The Regulations require reference *against* the prisoner when the futwah acquits him, and the Judge disagrees and considers it contrary to reason and justice; it seems right, therefore, on the side of mercy, to give the prisoner the benefit of the law opinion of the officers of the chief court, when that of the Causees or Muftee on circuit is against him.

67. As to the process of a criminal trial, nothing certainly can be more simple. The Judge reads and considers the depositions taken before the Magistrate and puts the prisoner on his trial: the arraignment or indictment is read to him, when he pleads not guilty, which may be considered almost a matter of course The prosecutor is examined, and his witnesses cross-questioned by the Judge, the law officer, and the prisoner; the defence is heard and the prisoner's witnesses examined. The evidence is considered by the Judge and law officer; and the latter declares, first, the conviction or acquittal by the evidence, according to the Mahommedan law; second, if convicted, the legal punishment for the offence. The Judge applies the modifications directed by the Regulations; and if the punishment exceeds fourteen years' imprisonment and labour, he refers to the sudder adawlut. The record, in such cases transmitted, may be shortened by omitting copies of the summonses, warrants, and recognizances, which are now written in full in three languages. It must be the duty of the Magistrate to attend to these forms, and of the Judge on circuit to see that they are attended to; but they need not swell the record. The proceedings before the Magistrates, depositions of witnesses and parties, the futwah and sentence, are all that are required to enable the Sudder court to judge of the case.

68. The only point which remains for discussion is that which relates to the enforcement of the pottah Regulation. The Honourable Court remark, that the superintendence of this matter naturally falls to the Collector in his magisterial capacity. A pottah is, to all intents and purposes, a civil contract: it is an engagement between Zemindar and Ryot for the occupancy and cultivation of a given portion of land, founded on established right of the occupant Ryot; or if no such right exists, on voluntary engagement. It cannot, to my conception, come under the criminal jurisdiction of the country. No personal penalty or liability to punishment is incurred by the breach of the pottah regulation: it cannot, therefore, be a subject cognizable by a Magistrate, but by a court of civil jurisdiction. The question may be considered as one entirely of a revenue nature. The non-delivery of pottahs has frequently become the subject of animadversion, but, in fact, the non-delivery is as often the fault of the Ryot as of the Zemindar. Natives often wish to avoid the formality and precision of a written agreement. In some cases they are omitted, because custom and usage has defined the terms of occupancy so clearly as to admit of no dispute, particularly when the settlement is made with the whole village community, and not with individual Ryots, and the latter is the prevalent practice in Zemindars' districts. Ryots are, however,

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by the existing Regulations free to demand a pottah, and Zemindars are compelled to grant them. Ryots refusing to exchange muchulkahs, (the corresponding engagements,) are liable to be ousted of possession; but as it must be obvious that the tender of the pottah by the one and the muchulkahs by the other would be a nugatory precision, unless the terms were defined in case of dispute, Section 9, therefore directs, that in case of disputes, the rule be determined by that prevailing the year before the permanent settlement. The objection is, that the Zemindar possesses the power of ousting the Ryots in the first instance, thereby throwing upon him the *onus proseqquendi*, which he cannot bear. A Zemindar moderately assessed may pay his rent, although the cultivation of the Ryot be lost; but the Ryot losing occupancy of his land, is ruined. There should certainly, therefore, be some prompt interposing authority to prevent abuse of this power, and this authority might be exercised by vesting summary judicial power in the Collector. The Ryot deprived should have the means of appeal to authority against undue ejectment. If the Collector consider the mulchulkahs tendered to be conformable to established rule, the Ryot will be maintained in possession; if otherwise, dispossessed: leaving either of the parties, as the case may be, to go in appeal to the court, if he objects to the decision of the Collector, that decision being reversible only by regular suits.

69. Regarding distraint, it was, I believe, found at Bengal, that when the Zemindars had not the power of distraint they could not realize their revenue, and when it was given them the Ryots are said to have been oppressed by its exercise. The object must therefore be, to continue a power essentially necessary for the realization of just demands, but at the same time to afford prompt and efficient means of guarding against abuse of it: and here, certainly, the authority of the Collector may be most usefully employed; but he must exercise it by summary judicial process, and not magisterial. On distraint of effects, the Ryot should have power to appeal to the Collector before the sale. The Collector should himself, or by means of his assistant, examine the pottah on which the claim is founded, and ascertain if the arrear be due, and either permit the sale to proceed, or by an order to that effect release the goods distrained, leaving the Ryot in the former case, the Zemindar in the latter, to apply to the court by regular suit, if either be dissatisfied. A Regulation totally prohibiting, on any occasion, the distraint without the order of the Collector, might cause unnecessary delay and give much useless trouble, since it is only cases of disputed arrears that require his intervention.

70. The decision of boundary disputes is another branch intended by the Honourable Court to be conducted by the Collector, aided by a punchayet. The Regulation framed by the Commission to give effect to that intention makes the decision of the second punchayet (the first decision being disallowed for corruption) final. A disputed boundary may involve landed property to a great extent; and I confess I cannot see why parties interested should not have the benefit of appeal to the courts, as in other suits, admitting the case to be cognizable, as in the two preceding, by the Collector in the first instance, and decision passed under his authority, to be reversible only by regular appeal to the superior courts, according to the amount value at issue, liable of course to the common rules of appeal. The great importance attached by the Honourable Court to this part of the subject arises probably from the state of things in the Bengal provinces. Tracts of country never surveyed, and waste, were transferred in permanency by name, but without known limits; in proportion as these lands have acquired value by cultivation, they have come into dispute. A correct survey is, after all, the best mode of preventing disputes; it defines limits and leaves no cause for contention.

71. I shall conclude these remarks by reference to the consideration of the expense of the Judicial department, amounting last official year to Pagodas 8,91,039 43 77.* That the charge is great, must be admitted: but great also

* Momorandum of Judical charges:

Sudder Adawlut .... Pagodas	51,737 2 23		
Circuit Courts	1,82,941 7 0		
Zillah Courts....................	4,30,526 14 54		
		6,65,204 23 77	
Police		2,25,835 20 0	
	Total, Pagodas	8,91,039 43 77	

also is the object for which it is expended; the administration of justice and the maintenance of peace in so extensive a territory. It must be observed, also, that considerable reduction of revenue charges took place on the institution of the courts: collectorates were united, assistant Collectors discontinued, and transfers of servants made. Of these, however, generally, no distinct account has been kept; they cannot therefore be correctly stated, with exception to those of a police nature, mentioned under its proper head, and shewn to have been more than provided for from its proper funds. When the introduction of the Judicial system was first agitated, the permanent settlement of the land revenue was considered its concomitant arrangement, and a saving of charges collection was calculated on by that means. The arrangement, generally speaking, may be said to have taken effect only in the Northern Circars, and then a reference to aggregate receipts and charges, judicial included, will prove that the reasonings of those employed in its introduction have been perfectly correct, as far as regards security of revenue. Annexed is the abstract of receipts and charges of the Northern Circars, twelve years before, and twelve years after the permanent settlement and judicial system. It is proper to mention, however, that in the report of the Board of Revenue of the 3d September 1799, and in various other documents relating to the introduction and establishment of the courts of judicature, certain new taxes are projected to meet the expense, particularly duties on arrack, beetel, and a monopoly of salt, the latter of which has since been successfully introduced, and which, with other receipts purely of a judicial nature, now amounts to Pagodas 10,05,640 15 21.*

72. I am aware it may be said that the revenue derived from the three first sources is not of necessity connected with the Judicial system, and might have been collected although that system had never been established. They compose, however, great additional impositions on the people; salt, in particular, having been raised by the monopoly from three to thirty pagodas per garce, in consideration of which the public at large may surely be admitted to be entitled to a more regular administration of justice, and even at a greater expense than formerly.

73. One of these items of receipt-stamps, now amounting to Pagodas 93,481 28 13, is levied in the province only. A considerable increase of revenue might be derived by extending the operation of the Regulation for its collection within the limits of the Supreme Court, but for this an act of the legislature would be required, to preclude the admission of receipts, bonds, or other obligations, as valid instruments, except on stamped paper. I am not aware of any objection that could be urged against the measure. The tax would fall on the mercantile and monied interest at the presidency, which under the Indian system of revenue in reality contributes nothing for the signal protection they enjoy, and all the benefits of regular courts of justice maintained at so great an expense.

(Signed) R. FULLERTON.

1st January 1816.

* Salt monopoly, nett receipts.......... Pagodas		6,44,275 17 15	
Stamps		93,481 28 13	
			7,37,757 28 0
Judicial Recipts:			
Fees .... Pagodas	29,058 14 67		
Fines	11,864 3 12		
Refunds of charges	10,666 8 76		
		51,588 26 75	2,67,883 14 73
Police receipts by magistrates....	2,128 32 23		
Police lands assumed	2,14,168 0 0	2,16,294 32 78	
		Pagodas	10,05,640 15 21

Statement

Statement of all the Receipts of the Revenue and Judicial Department in the Northern Circars, from the Year 1803-4 to 1813-14, respectively.

1803-4.	Rajahmundry.			Masulipatam.			Guntoor.			Vizagapatam.			Gangam.			Total of the Northern Circars.		
	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.
Ordinary Receipts.																		
Land Revenue	5,55,184	3	11	2,52,035	29	77	3,22,148	1	66	2,47,771	14	50	2,42,373	2	30	16,19,512	9	74
							*[24,971	4	1]							[24,971	4	1]
Farms and Licences	3,674	16	18	9,269	38	47	1,279	32	22	9,467	1	—	4,891	33	55	28,582	37	62
							[605	34	52]							[605	34	52]
Sayer Revenue	23,653	8	32	33,328	29	3	5,462	36	48	21,188	35	70	9,763	16	10	93,397	—	3
							[11,972	26	59]							[11,372	29	59]
Salt Revenue	7,254	4	64	7,830	13	48	8,285	36	68	3,109	37	65	9,674	29	45	36,154	38	50
Mint Receipts	—	—	—	569	10	55	—	—	—	—	—	—	—	—	—	569	10	55
Total	5,89,765	32	45	3,02,464	27	15	3,37,176	23	44	2,81,537	5	25	2,66,702	39	60	17,77,647	2	29
				569	10	55	—	—	—	—	—	—	—	—	—	569	10	55
							[37,549	23	32]							[37,549	23	32]
Extraordinary Receipts.																		
Tuckavy	457	39	51	20,142	13	5	3,041	8	20	—	—	—	14	12	—	23,655	30	76
							[1,577	7	4]							[1,577	7	4]
Salt Advances	6,035	23	50	3,937	29	—	2,063	5	61	—	—	—	—	—	—	12,036	16	31
Pensions and Rozenahs and Pagoda Fees	—	—	—	16,004	12	—	4,192	35	—	—	—	—	—	—	—	20,197	5	—
Canangoes' Russooms	—	—	—	—	—	—	275	23	53	—	—	—	36	20	65	312	2	38
Repairs of Tanks	10	1	46	—	—	—	1,337	31	65	—	—	—	—	—	—	1,347	33	31
Deposits	—	—	—	887	41	60	—	—	—	—	—	—	—	—	—	887	41	60
Batta or gain by Exchange	—	—	—	—	—	—	101	32	65	—	—	—	—	—	—	101	32	65
							[68	6	15]							[68	6	15]
Salary and Commission refund	231	39	1	583	27	60	345	22	6	—	—	—	70	30	52	1,231	18	39
							[98	—	67]							[98	—	67]
Charges Collection, &c. refund	—	—	—	2,993	23	61	2,588	11	16	1,280	15	15	768	—	30	7,630	8	42
Advances for purchase of Cattle	—	—	—	146	27	61	—	—	—	—	—	—	—	—	—	146	27	61
Sales of Land	95,449	8	32	12,731	4	41	—	—	—	7,579	15	—	1,08,610	12	60	2,24,369	40	53
Interest Account	—	—	—	—	—	—	2,597	16	76	—	—	—	32	34	—	2,630	8	76
Bazar Fund	21	88	11	1,628	5	46	1,935	12	25	—	—	—	1,628	35	50	5,213	39	52
Charges Collection of Sequestered Zemindarry	—	—	—	—	—	—	32,538	6	21	—	—	—	—	—	—	32,538	6	21
Extra Revenue	421	18	30	517	—	33	146	34	45	186	40	70	202	7	5	1,474	17	23
							[203	21	11]							[203	21	11]
Dutch Settlement	4,734	35	32	—	—	—	—	—	—	122	36	—	—	—	—	4,857	29	32
Total	1,07,362	26	13	59,572	17	47	51,163	30	53	9,169	23	5	1,11,363	10	22	3,38,631	23	60
							[1,946	35	17]							[1,946	35	17]
Total of Revenue Department	6,97,128	16	58	3,62,606	13	37	3,88,340	2	17	2,90,706	28	30	3,78,066	8	2	21,16,847	36	64
							[39,496	13	49]							[39,496	13	49]
Total of Judicial ditto	290	40	34	46	30	65	451	6	17	126	—	—	—	—	—	914	35	36
Grand Total	6,97,419	15	12	3,62,653	2	22	3,88,791	18	34	2,90,832	28	30	3,78,066	8	2	21,17,762	30	20
							[39,496	16	49]							[39,496	16	49]

1804-5.

	Column 1	Column 2	Column 3	Column 4	Column 5	Total
Ordinary Receipts.						
Land Revenue	4,34,881 29 79	2,50,285 26 7	3,48,221 10 16 [29,791 21 27]	2,91,233 19 30	2,32,252 35 40	15,56,874 37 12 [29,791 21 27]
Farms and Licenses	5,318 26 67	10,225 30 —	1,672 24 5 [550 34 52]	7,473 18 65	4,864 16 20	29,454 31 77 [550 34 52]
Sayer Revenue	22,403 33 46	37,280 8 48	7,071 38 54 [13,273 19 50]	22,619 2 —	20,225 — 45	1,09,599 41 33 [13,272 19 53]
Salt Revenue	30,379 21 49	11,894 8 58	7,368 24 20	5,494 33 —	10,454 9 60	65,591 13 27
Mint Receipt	— — —	312 10 20	— — —	— — —	— — —	312 10 20
Total...	4,92,983 28 1	3,09,685 31 33 312 10 20	3,64,234 13 15 [43,615 33 52]	3,26,820 31 15	2,67,796 20 5	17,61,520 39 69 312 10 20 [43,615 33 52]
Extraordinary Receipts.						
Extra Revenue	3 34 6	422 32 17	363 — 9 [414 31 28]	62 12 —	802 29 20	1,654 23 52 [414 31 28]
Tuccavy advances recovered	1,606 — —	10,046 5 1	46 25 44 [862 4 5]	— — —	149 24 —	11,848 12 45 [862 4 5]
Salt ditto ditto	14,576 38 68	3,841 23 55	540 5 23	31 6 —	— — —	18,989 31 66
Pensions, Rozenahs, &c.	— — —	105 25 17	4,948 16 50	— — —	— — —	5,053 41 67
Canongoes Russooms	— — —	— — —	— — —	— — —	34 35 50	34 35 50
Repairs of Tanks	1,287 — —	— — —	[15 16 64]	— — —	— — —	1,287 — — [15 16 64]
Deposits	— — —	1,703 39 —	91 39 47	— — —	— — —	17,95 36 47
Batta Gain	— — —	— — —	92 26 64 [125 7 36]	— — —	117 28 15	210 12 79 [125 7 36]
Charges Collection, &c. Refund	— — —	501 35 8	— — —	— — —	— — —	501 35 8
Salary and Commission ditto	3,044 26 14	4,141 41 63	— — —	— — —	— — —	7,186 25 77
Advances for Purchase of Cattle	— — —	148 21 —	— — —	— — —	— — —	148 21 —
Sales of Land	— — —	— — —	— — —	— — —	6,400 28 20	6,400 28 20
Interest Account	— — —	— — —	1,622 3 55	— — —	285 16 25	1,907 20 —
Bazar Fund	— — —	1,084 35 6	264 22 76 [36 24 33]	— — —	1,578 39 5	2,928 13 7 [36 24 33]
Charges Collection of Sequestered Zemindarries	— — —	— — —	3,637 8 43	— — —	— — —	3,637 8 43
French Possession	661 10 28	— — —	— — —	— — —	— — —	661 10 28
Dutch Settlement	6,777 28 31	— — —	— — —	— — —	— — —	6,777 28 31
Total...	27,957 11 67	21,997 6 7	11,606 23 11 [1,454 — 6]	93 18 —	9,369 32 55	71,024 7 60 [1,454 — 6]
Total of the Revenue Department	5,20,940 39 68	3,31,995 5 60	3,75,840 36 26 [45,069 33 58]	3,26,914 7 15	2,77,166 10 60	18,32,857 15 69 [45,069 33 58]
Total of the Judicial ditto	440 36 60	1,482 33 25	121 2 4	672 34 20	— — —	2,717 22 29
Grand Total...	5,21,381 34 48	3,33,477 39 5	3,75,961 38 30 [45,069 33 58]	3,27,586 41 35	2,77,163 10 60	18,35,574 38 18 [45,069 33 58]

* The figures in small type in the above table are written in red ink in the original.

1805-6.	Rajahmundry.	Mausulipatam.	Guntoor.	Vizagapatam.	Ganjam.	Total of the Northern Circars.
	Pagodas. F. C.	Pagodas. F. C.	Pagodas. F. C.	Pagodas. F. C.	Pagodas. F. C.	Pagodas. F. C.
Ordinary Receipts.						
Land Revenue	4,75,923 30 68	2,76,027 29 27	3,40,617 — 50	3,42,873 15 5	2,16,659 28 32	1,652,101 20 22
			[35,746 16 45]			[35,746 16 45]
Farms and Licences	5,081 26 7	9,341 37 28	2,715 7 65	11,884 34 —	4,723 14 20	33,740 35 40
			[692 26 48]			[692 26 48]
Sayer Revenue	12,994 26 19	45,462 9 6	5,456 38 66	16,955 — 20	15,126 28 50	95,995 19 1
			[7,410 32 38]			[7,410 32 38]
Salt Revenue	69,663 15 22	42,161 15 60	25,557 26 48	34,017 26 25	29,333 40 65	2,00,733 40 60
Mint Receipt	— — —	2,598 15 45	— — —	— — —	— — —	2,598 15 45
Total...	5,63,663 14 36	3,72,993 7 41	3,74,346 31 69	4,05,730 33 50	2,65,843 28 7	1,982,577 31 43
		2,598 15 45	[43,849 33 51]			2,598 15 45
						[43,849 33 51]
Extraordinary Receipts.						
Extra Revenue	14 6 —	992 11 62	184 23 56	— — —	722 36 —	1,913 35 38
			[530 8 46]			[530 8 46]
Tuccavy Advances recovered	44 — —	6,756 17 63	147 37 54	— — —	857 6 —	7,805 19 37
			[2,047 11 1]			[2,047 11 1]
Pensions, Rozenahs, and Pagoda Fees	— — —	998 40 60	8,140 32 55	— — —	— — —	9,139 32 35
Canongoes Russooms	— — —	— — —	— — —	— — —	18 4 5	18 4 5
Repairs of Tanks	— — —	— — —	9 20 17	— — —	— — —	9 20 17
			[12 40 57]			[12 40 57]
Deposits	— — —	935 19 20	273 14 56	— — —	— — —	1,208 33 76
			[18 17 68]			[18 17 68]
Salary and Commission Refund	2,288 41 61	992 12 57	170 12 79	— — —	1,744 — —	5,195 25 37
Charges Collection Refunded	— — —	739 10 2	[61 13 73]	54 27 60	29 23 70	823 19 52
						[61 13 73]
Sales of Land	— — —	80,425 — —	— — —	— — —	— — —	80,425 — —
Interest Account	— — —	275 37 50	118 28 22	— — —	680 12 50	1,074 36 42
Batta Gain by Exchange	— — —	13 19 25	54 18 45	— — —	— — —	67 37 70
			[185 29 63]			[185 29 65]
Bazar Fund	58 19 65	1,305 5 76	174 23 77	— — —	1,977 15 10	3,515 22 68
			[80 9 12]			[80 9 12]
Dutch Settlement	5,546 26 19	— — —	— — —	— — —	— — —	5,546 26 19
Total...	7,952 9 65	93,434 7 15	9,274 3 61	54 27 60	6,029 13 55	116,744 20 16
			[2,936 5 —]			[2,936 5 —]
Total of the Revenue Department	5,71,615 24 21	4,69,025 30 21	3,83,620 35 50	4,05,785 19 30	2,71,872 41 62	21,01,920 25 24
			[46,785 38 51]			[46,785 38 51]
Ditto of the Judicial ditto	307 21 14	986 15 37	81 38 26	299 8 50	130 36 —	1,805 35 47
Grand Total...	5,71,923 3 35	4,70,012 3 58	3,83,702 31 76	4,06,084 28 —	2,72,003 35 62	21,03,726 18 71
			[46,785 38 51]			[46,785 38 51]

1806-7.

Ordinary Receipts.						
Land Revenue	4,68,610 31 6	272,467 30 67	3,45,781 15 8 *[36,074 14 44]	2,75,169 13 70	2,32,063 37 70	15,94,093 2 61 •[36,074 14 44]
Farms and Licences	6,260 39 14	13,737 37 70	3,342 6 57 [318 2 51]	9,460 37 30	7,182 0 60	39,983 37 71 [318 2 51]
Sayer Revenue	4,993 39 50	18,229 21 5	2,360 18 70 [3,374 11 16]	3,609 32 30	4,782 2 50	33,975 30 45 [3,374 11 16]
Salt Revenue	82,238 37 24	16,782 21 60	55,418 31 1	21,642 9 10	41,380 37 15	2,17,463 10 30
Mint Receipt	— — —	1,232 11 15	— — —	— —	— — —	1,232 11 15
Total...	5,62,104 21 14	3,21,217 27 42	4,06,902 29 56	3,09,882 8 60	2,85,408 36 35	18,85,515 39 47
		1,232 11 15	[39,766 28 31]	— — —	— — —	1,232 11 15 [39,766 28 31]
Extraordinary Receipts.						
Extra Revenue	23 1 9	4 8 30	71 35 41 [760 25 59]	— — —	738 24 —	837 27 — [760 25 59]
Tuccavy Advances Recovered	— — —	— — —	100 12 78 [2,422 8 23]	— — —	— — —	100 12 78 [2,422 8 23]
Pensions, Rozinahs, and Pagoda Fees	— — —	1,028 36 —	4,796 — —	— — —	— — —	5,824 36 —
Repairs of Tanks	— — —	— — —	5 6 9 [23 24 77]	— — —	— — —	5 6 9 [23 24 77]
Deposits	— — —	1,447 29 30	1,167 4 16 [103 5 20]	— — —	— — —	2,614 33 46 [103 5 20]
Batta or Gain by Exchange	— — —	13 8 19	7 17 51 [25 13 48]	— — —	— — —	20 25 76 [25 13 48]
Salary and Commission Refunded	5,198 17 58	— — —	— — —	— — —	399 26 65	5,598 2 43
Charges Collection ditto	— — —	— — —	129 23 34	— — —	— — —	129 23 34
Advances for Purchase of Cattle Recovered	— — —	42 26 20	— — —	— — —	— — —	42 26 20
Interest Account	— — —	527 33 23	229 11 7	— — —	17 16 30	774 18 60
Bazar Fund	735 8 29	1,203 30 66	75 14 21 [76 24 27]	— — —	537 34 50	2,552 4 6 [76 24 27]
Dutch and French	7,153 39 72	— — —	— — —	1,231 36 40	— — —	8,385 34 32
Total...	13,110 25 8	4,268 4 28	6,588 41 23 [3,411 18 14]	1,231 36 40	1,693 17 65	26,885 41 4 [3,411 18 14]
Total of the Revenue Department	5,75,215 4 22	3,26,718 1 5	4,13,484 28 79 [43,178 4 45]	3,11,114 3 20	2,87,102 12 20	19,13,634 7 66 [43,178 4 45]
Ditto of the Judicial ditto	100 30 —	2,441 13 13	81 25 48	806 26 —	129 13 40	3,559 24 21
Grand Total...	5,75,315 34 22	3,29,159 14 18	4,13,566 12 47 [43,178 4 45]	3,11,920 29 20	2,87,231 25 60	19,17,193 32 7 [43,178 4 45]

1807-8.	Rajahmundry.			Masulipatam.			Guntoor.			Vizagapatam.			Ganjam.			Total of the Northern Circars.		
	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.		C.	Pagodas.	F.	C.	Pagodas.	F.	C.
Ordinary Receipts.																		
Land Revenue	5,47,771	28	30	2,61,118	41	3	3,48,966	9	35	3,62,919	13	79	2,32,369	31	59	17,53,145	40	46
							[31,984	26	78]							[31,984	26	79]
Farms and Licences	7,177	17	42	20,998	19	28	3,033	17	30	11,262	35	50	8,887	32	50	51,359	38	40
							[292	27	56]							[292	27	56]
Sayer Revenue	—	—	—	9,083	6	70	134	39	52	—	—	—	2,231	17	30	11,449	21	72
							[759	23	19]							[759	23	19]
Salt Revenue	53,065	28	77	28,969	6	—	46,255	16	9	23,605	19	60	35,033	5	45	1,86,928	34	31
Mint Receipt	—	—	—	881	27	10	—	—	—	—	—	—	—	—	—	881	27	10
Total...	6,08,014	32	69	3,21,051	16	31	3,98,389	40	46	3,97,787	27	29	2,78,522	3	24	20,03,765	36	39
							[33,036	35	73]							[33,036	35	73]
Extraordinary Receipts.																		
Extra Revenue	9	—	—	—	—	—	84	6	20	—	—	—	722	36	—	816	—	20
							[873	8	63]							[873	8	63]
Tuccavy Advances recovered	—	—	—	—	—	—	83	18	4	—	—	—	—	—	—	83	18	4
							[2,755	24	71]							[2,755	24	71]
Pensions, Rozinahs, and Pagoda Fees	—	—	—	—	—	—	6,554	26	20	—	—	—	—	—	—	6,554	26	20
Canangoes Russooms	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
							[550	34	52]							[550	34	52]
Repairs of Tanks	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
							[24	19	8]							[24	19	8]
Deposits	—	—	—	1,039	36	—	158	5	20	—	—	—	—	—	—	1,197	41	20
							[25	8	60]							[25	8	60]
Batta on Gain by Exchange	—	—	—	—	—	—	—	28	49	—	—	—	—	—	—	—	28	49
							[5	6	53]							[5	6	53]
Salary and Commission Refund	2,937	40	17	—	—	—	1,823	12	63	2,738	28	47	—	—	—	7,499	39	47
Charges Collection Refund	—	—	—	—	—	—	11	—	—	552	—	—	—	—	—	563	—	—
Interest Account	301	18	75	50	8	12	—	—	—	—	—	—	—	—	—	351	27	7
Bazar Fund	263	9	46	406	34	77	35	25	—	—	—	—	188	17	20	894	2	63
							[32	28	75]							[32	28	75]
French Possession	2,121	5	36	—	—	—	—	—	—	—	—	—	—	—	—	2,121	5	36
Dutch Settlement	4,611	35	61	—	—	—	—	—	—	1,217	5	35	—	—	—	5,828	41	16
Total...	10,244	25	75	1,496	37	9	8,750	38	16	4,507	34	2	911	11	20	25,911	20	42
							[4,267	5	62]							[4,267	5	62]
Total of the Revenue Department	6,18,259	16	64	3,22,548	11	40	4,07,140	36	62	4,02,295	19	31	2,79,433	14	44	20,29,677	15	1
							[37,303	41	55]							[37,303	41	56]
Total of the Judicial ditto	179	6	—	679	29	44	300	40	68	526	29	40	359	34	0	2,046	13	72
Grand Total...	6,18,438	22	64	3,23,227	41	4	4,07,441	35	50	4,02,822	6	71	2,79,793	6	44	20,31,723	28	73
							[37,303	41	55]							[37,303	41	55]

1808-9.

Ordinary Receipts.						
Land Revenue	4,90,084 19 55	2,56,609 1 56	3,48,501 7 62 [26,716 6 71]	3,54,271 6 7	2,23,124 33 3	16,72,590 23 23 [26,716 6 71]
Farms and Licences	6,891 13 28	22,433 14 12	3,834 — 12 [310 19 8]	16,419 34 22	10,411 43 26	59,990 15 20 [310 19 8]
Sayer Revenue	3,188 30 15	22,547 8 52	5,507 10 19 [3,759 22 44]	2,407 40 69	3,454 17 28	37,105 17 23 [3,759 22 44]
Salt Revenue	74,828 10 54	28,940 30 21	49,735 35 3	34,866 7 60	33,865 9 3	2,22,236 2 61
Mint Receipt	— — —	1,018 32 6	— — —	— — —	— — —	1,018 32 6
Total...	5,74,992 28 72	3,31,548 41 67	4,07,578 8 16 [30,786 3 43]	4,07,964 43 78	2,70,856 12 60	19,92,941 — 53 [30,786 3 43]
Extraordinary Receipts.						
Extra Revenue	25 24 2	1,131 43 74	51 1 12 [850 21 11]	5 32 11	769 2 4	1,983 13 23 [850 21 11]
Tuccavy Advances Recovered	— — —	— — —	154 1 45 [2,941 41 8]	— — —	— — —	154 1 45 [2,941 41 8]
Pensions, Rozenahs, and Pagoda Fees	— — —	— — —	1,719 15 65	— — —	— — —	1,719 15 65
Repairs of Tanks	— — —	— — —	85 18 3 [178 35 70]	— — —	— — —	85 18 3 [178 35 70]
Deposits	— — —	542 20 69	290 5 50 [26 5 50]	— — —	— — —	832 26 39 [26 5 50]
Batta, or Gain by Exchange	— 1 74	— 2 75	5 31 56 [— 33 34]	— 4 7	— — 68	5 41 40 [— 33 34]
Salary and Commission Refunded	343 22 37	— — —	71 38 52	— — —	397 10 —	812 26 9
Charges Collection ditto	— — —	24 7 62	99 8 75	— — —	— — —	123 16 57
Interest Account	1,568 3 66	135 11 70	— — —	— — —	643 41 72	2,347 12 48
Law Charges in the Revenue Department	— — —	60 — —	— — —	— — —	— — —	60 — —
Bazar Fund	— — —	— — —	58 13 40 [4 44 16]	— — —	— — —	58 13 40 [4 44 16]
French Possession	1,982 18 5	— — —	— — —	— — —	— — —	1,982 18 5
Dutch Settlement	5,201 38 39	— — —	— — —	— — —	— — —	5,201 38 39
Total...	9,121 18 63	1,893 42 30	2,534 44 78 4,003 1 29	5 36 18	1,810 9 64	15,366 17 13 [4,003 1 29]
Total of the Revenue Department	5,84,114 2 55	3,33,442 39 17	4,10,113 8 14 34,789 4 72	4,07,970 35 16	2,72,666 22 44	20,08,307 17 66 [34,789 4 72]
Ditto of the Judicial ditto	24,014 7 59	73,677 11 67	3,879 35 20	35,989 25 46	32,145 10 27	1,69,706 — 59
Grand Total...	6,08,128 10 34	4,07,120 6 4	4,13,992 43 34 34,789 4 72	4,43,960 15 62	3,04,811 32 71	21,78,013 18 45 [34,789 4 72]

1809-10.	Rajahmundry.			Masulipatam.			Guntoor.			Vizagapatam.			Ganjam.			Total of the Northern Circars.		
	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.
Ordinary Receipts.																		
Land Revenue	5,55,334	26	71	2,38,946	—	26	3,35,427	6	8	2,66,356	22	47	2,43,177	42	78	16,39,242	8	70
							[43,334	23	19]							[43,334	23	19]
Farms and Licences	6,518	36	51	17,506	20	44	17,131	34	30	13,299	13	72	12,035	24	77	66,491	40	34
							[352	23	20]							[352	23	20]
Sayer Revenue	14,915	15	17	48,608	1	78	37,305	33	73	18,929	34	76	15,495	22	61	1,35,254	18	65
							[1,835	40	33]							[1,835	40	33]
Salt Revenue	73,124	7	28	20,495	7	15	61,320	16	41	42,561	16	67	26,408	39	76	2,23,909	42	67
Net Stamp Duties	1,417	31	6	1,376	28	79	944	—	60	207	9	24	385	9	9	4,330	34	18
Extra Revenue	34	21	51	—	—	—	220	43	11	159	11	1	763	32	24	1,178	18	7
							[406	19	39]							[406	19	39]
Total...	6,51,345	3	64	3,26,932	14	2	4,52,349	44	63	3,41,513	18	47	2,98,266	37	5	20,70,407	28	21
							[45,929	16	31]							[45,929	16	31]
Extraordinary Receipts.																		
Tuccavy Recovered	—	—	—	—	—	—	[2,112	29	66]	—	—	—	—	—	—	[2,112	29	66]
Charges Collection of Sequestered Zemindarries	6,869	35	38	—	—	—	—	—	—	—	—	—	—	—	—	6,869	35	38
Pensions	—	—	—	—	—	—	2	28	64	—	—	—	—	—	—	2	28	64
Deposits	—	—	—	1,647	28	74	314	10	40	—	—	—	—	—	—	1,961	39	34
							[29	19	10]							[29	19	10]
Batta, or Gain by Exchange	—	—	—	—	—	—	96	32	36	—	2	28	—	—	—	96	34	64
							[—	35	15]							[—	35	15]
Salary and Commission Refunded	—	—	—	—	—	—	145	11	60	56	24	60	—	—	—	201	36	40
							[—	11	44]							[—	11	44]
Interest Accounts	3,329	18	20	842	25	21	88	22	9	—	—	—	3,612	11	71	7,872	32	41
							[43	25	26]							[43	25	26]
Repairs of Tanks	—	—	—	—	—	—	[280	21	79	—	—	—	—	—	—	[280	21	79]
French Possessions	2,868	9	23	—	—	—	—	—	—	—	—	—	—	—	—	2,868	9	23
Dutch Settlements	4,116	16	69	—	—	—	—	—	—	—	—	—	—	—	—	4,116	16	69
Total...	17,183	34	70	2,490	9	15	647	15	49	56	27	8	3,612	11	71	23,990	8	53
							2,467	8	—							[2,467	8	—]
Total Receipts in the Revenue Department...	6,68,528	38	54	3,29,422	23	17	4,52,997	15	32	3,41,570	—	55	3,01,879	3	76	20,94,397	36	74
							48,396	24	31							[48,396	24	31]
Total Receipts in the Judicial Department ..	6,110	29	73	9,289	17	71	—	—	—	3,818	24	23	2,462	35	23	21,681	17	30
Grand Total..	6,74,639	23	47	3,38,711	41	8	4,52,997	15	32	3,45,388	24	78	3,04,341	39	19	21,16,079	9	24
							48,396	24	31							[48,396	24	31]

1810-11.

Ordinary Receipts.						
Land Revenue	5,78,785 34 77	2,57,865 30 64	3,57,970 7 57	3,28,334 2 56	2,66,548 6 40	17,89,503 37 54
			[36,254 16 46]			[36,254 16 46]
Farms and Licences	7,928 31 2	23,556 44 71	19,988 10 74	18,904 3 68	12,341 5 55	82,719 6 30
			[566 15 55]			[566 15 55]
Sayer Revenue	17,938 24 46	51,947 36 53	33,653 5 74	16,734 19 79	15,027 31 53	1,35,301 28 65
			[2,870 3 6]			[2,870 3 6]
Salt Revenue	87,359 11 31	21,393 38 78	76,264 39 42	42,461 11 6	40,543 28 16	2,68,022 39 13
Net Stamp Duties	4,416 32 15	6,851 11 47	3,411 33 3	3,322 39 48	1,661 29 59	19,664 11 12
Extra Revenue	9 32 11	157 32 30	132 40 72	47 12 21	722 38 46	1,070 21 20
			[243 22 52]			[843 22 52]
Total...	6,96,438 31 22	3,61,773 15 23	4,91,421 3 2	4,09,803 44 38	3,36,845 5 29	22,96,282 9 34
			[40,534 12 79]			[40,534 12 79]
Extraordinary Receipts.						
Tuccavy Recovered	— — —	— — —	[1,509 14 31]	— — —	— — —	[1,509 14 31]
Repairs of Tanks Recovered	— — —	— — —	[142 32 57]	— — —	— — —	[142 32 57]
Charges Collection of Sequestered Zemindarries	5,511 19 45	— — —	— — —	— — —	— — —	5,511 19 45
Pensions	— — —	— — —	2 2 65	— — —	— — —	2 2 65
Deposits	— — —	1,508 20 72	— — —	— — —	— — —	1,508 20 72
Batta or Gain by Exchange	1,188 25 57	— — —	283 33 25	— — —	— — —	1,472 14 72
			[12 9 17]			[12 9 17]
Salary and Commission Refunded	— — —	— — —	1,511 1 11	— — —	185 42 70	1,696 44 1
Charges Collection, &c Refunded	160 — —	308 25 53	11 9 25	43 27 26	— — —	523 17 24
Interest Accounts	2,034 10 19	2,476 — 42	395 39 37	— — —	3,267 41 37	8,174 1 55
			[84 31 57]			[84 31 57]
French Possessions	3,105 21 7	— — —	— — —	— — —	— — —	3,105 21 7
Dutch Settlements	9,484 9 3	— — —	— — —	— — —	— — —	9,484 9 3
Total...	21,483 40 51	4,293 2 7	2,203 41 3	43 27 26	3,453 39 27	31,478 15 34
			[1,748 43 2]			1,748 43 2]
Total Receipts in the Revenue Department ...	7,17,922 26 73	3,66,066 17 30	4,93,624 44 5	4,09,847 26 64	3,40,298 44 56	23,27,760 24 68
			[42,283 11 1]			[42,283 11 1]
Total Receipts in the Judicial ditto	3,486 35 59	7,718 33 6	— — —	2,590 30 70	800 24 30	14,596 34 5
Grand Total...	7,21,409 17 52	3,73,785 5 36	4,93,624 44 5	4,12,438 12 54	3,41,099 24 6	23,42,357 13 73
			[42,283 11 1]			[42,283 11 1]

1811-12.

1811-12.	Rajahmundry. Pagodas.	F.	C.	Masulipatam. Pagodas.	F.	C.	Guntoor. Pagodas.	F.	C.	Vizagapatam. Pagodas.	F.	C.	Gangam. Pagodas.	F.	C.	Total of the Northern Circars. Pagodas.	F.	C.
Ordinary Receipts.																		
Land Revenue	4,91,220	18	—	2,55,374	13	32	3,56,377 [40,529	43 9	6 48]	4,31,829	42	63	2,37,764	44	60	17,72,567 [40,529	27 9	1 48]
Farms and Licences	7,480	27	55	19,695	25	31	22,659 [1,363	14 7	44 68]	11,037	6	32	12,542	27	56	73,415 [1,363	11 7	58 68]
Sayer Revenue	27,604	11	44	67,464	16	29	31,710 [1,875	21 35	21 19]	18,175	14	21	14,801	30	26	1,59,756 [1,875	3 35	61 19]
Salt Revenue	74,399	38	13	33,320	44	69	90,046	21	36	48,151	8	30	59,168	4	30	3,05,086	27	18
Net Stamp Duties	4,488	43	47	2,929	1	70	2,814	7	76	2,939	21	18	1,527	43	64	14,699	28	35
Extra Revenue	355	22	40	343	35	71	329 [200	28 4	38 36]	251	2	19	722	38	46	2,002 [200	37 4	54 36]
Total...	6,05,549	26	39	3,79,128	2	62	5,03,938 [43,968	1 12	61 11]	5,12,384	5	23	3,26,528	9	42	23,27,528 [43,968	— 12	67 11]
Extraordinary Receipts.																		
Tuckavy Advances Recovered	—	—	—	—	—	—	[3,060	38	39]	—	—	—	—	—	—	[3,060	38	39]
Repairs of Tanks Recovered	—	—	—	—	—	—	[17	17	52]	—	—	—	—	—	—	[17	17	52]
Charges Collection of Sequestered Zemindarries	5,419	—	49	—	—	—	—	—	—	—	—	—	—	—	—	5,419	—	49
Pensions	—	—	—	—	—	—	1	4	40	—	—	—	—	—	—	1	4	40
Deposits	—	—	—	2,762	41	63	—	—	—	—	—	—	—	—	—	2,763	41	63
Batta or Gain by Exchange	523	35	57	—	—	—	359 [19	21 19	63 68]	—	—	—	—	—	—	883 [19	12 19	40 68]
Salary and Commission Refunded	120	—	—	922	5	19	049	28	66	—	—	—	—	—	—	1,991	34	5
Charges Collection, &c. Refunded	—	—	—	50	—	—	—	—	—	119	—	48	—	—	—	169	—	48
Sales of Land	4,200	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4,200	—	—
Interest Account	13,560	17	9	2,540	17	29	1,880 [1	6 5	75 32]	158	24	57	1,097	4	71	19,236 [1	26 5	1 32]
French Possessions	4,516	9	75	—	—	—	—	—	—	—	—	—	—	—	—	4,516	9	75
Dutch Settlements	4,867	—	69	—	—	—	—	—	—	—	—	—	—	—	—	4,867	—	69
Total...	33,206	19	19	6,275	19	31	3,190 [3,098	17 36	4 31]	277	25	25	1,097	4	71	44,046 [3,098	40 36	70 31]
Total Receipts of the Revenue Department	6,38,756	—	58	3,85,403	22	13	5,07,128 [47,067	18 3	65 42]	5,12,661	30	48	3,27,625	14	33	23,71,574 [47,067	41 3	57 42]
Total Receipts of the Judicial ditto	2,966	22	72	10,490	15	68	—	—	—	1,882	2	15	791	33	60	16,130	29	55
Grand Total...	6,41,722	23	50	3,95,893	38	1	5,07,128 [47,067	18 3	65 42]	5,14,543	32	63	3,28,417	3	13	23,87,705 [47,067	26 3	32 42]

1812-13.

Ordinary Receipts.						
Land Revenue	6,12,874 16 48	285,327 3 13	3,45,097 11 58 [47,797 42 62]	3,63,542 20 40	2,83,833 18 32	18,90,674 25 31 [47,797 42 62]
Farms and Licences	7,386 24 79	23,482 11 37	23,896 28 41 [1,970 35 76]	12,826 32 40	12,798 18 78	80,390 26 35 [1,970 35 76]
Sayer Revenue	23,409 44 —	45,550 12 65	27,237 29 18 [2,776 36 78]	14,670 29 2	12,807 43 38	1,23,676 18 43 [2,776 36 78]
Salt Revenue	78,166 16 46	30,763 8 27	94,382 38 30	53,515 8 36	54,082 14 35	3,10,909 41 14
Net Stamp Duties	4,088 19 4	4,902 14 79	2,010 44 33	2,135 28 51	1,759 3 23	14,896 20 30
Extra Revenue	618 35 72	27 44 19	126 22 43 [699 31 5]	389 27 51	722 38 46	1,945 33 71 [699 31 5]
Total...	7,26,544 22 9	3,90,113 5 —	4,92,751 39 63 [53,245 11 61]	4,47,080 6 60	3,66,004 2 12	24,22,493 30 64 [53,245 11 61]
Extraordinary Receipts.						
Tuccavy Advances Recovered	— — —	— — —	[686 5 16]	253 11 69	— — —	253 11 69
Charges Collection of Sequestered Zemindarries	5,019 17 59	— — —	— — —	— — —	— — —	5,019 17 59
Deposits	— — —	1,558 14 4	23,989 6 12	— — —	— — —	25,547 20 16
Batta on Gain by Exchange	— — —	— — —	364 9 68 [97 — 51]	10 36 12	— — —	375 1 — [97 — 51]
Charges Collection Refunded	— — —	— — —	— — —	58 20 7	— — —	58 20 7
Interest Account	11,786 20 28	2,719 16 14	— 30 6	— — —	1,046 9 24	15,552 — 66 [— 30 6]
French Possessions	2,176 18 60	— — —	— — —	— — —	— — —	2,176 18 60
Dutch Settlements	5,918 32 33	— — —	— — —	— — —	— — —	5,918 32 33
Total...	24,900 44 20	4,277 30 18	24,353 16 — [783 35 73]	322 23 8	1,046 9 24	54,900 32 70 [783 35 73]
Total Receipts of the Revenue Department	7,51,445 21 29	3,94,390 35 18	5,17,105 10 63 [54,029 2 54]	4,47,402 29 68	3,67,050 11 36	24,77,394 18 54 [54,029 2 54]
Total Receipts of the Judicial ditto	1,414 44 35	9,899 39 21	— — —	1,236 23 36	1,001 27 18	13,552 44 30
Grand Total...	7,52,860 20 64	4,04,290 29 39	5,17,105 10 63 [54,029 2 54]	4,48,639 8 24	3,68,051 38 54	24,90,947 18 4 [54,029 2 54]

1813-14.	Rajahmundry.			Masulipatam.			Guntoor.			Vizagapatam.			Ganjam.			Total of the Northern Circars.		
	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.
Ordinary Receipts.																		
Land Revenue	5,66,437	2	9	2,65,054	44	76	3,55,305	19	61	3,06,916	36	7	2,27,861	29	51	17,21,575	42	44
							[47,228	34	38]							[47,228	34	36]
Farms and Licences	7,586	39	57	29,469	22	55	19,796	42	62	14,674	36	77	12,434	19	10	83,962	26	21
							[1,268	4	59]							[1,268	4	59]
Sayer Revenue	19,083	25	12	37,541	1	47	27,990	18	57	14,052	29	12	13,698	6	16	1,12,365	35	64
							[2,784	43	15]							[2,784	43	13]
Salt Revenue	89,324	12	24	32,361	18	72	55,773	26	65	41,091	27	46	39,845	24	41	2,58,396	20	8
Net Stamp Duties	4,283	—	45	6,411	4	17	2,173	24	49	1,978	21	78	1,901	2	64	16,747	9	13
Extra Revenue	139	—	64	1	37	52	392	29	43	84	28	36	722	38	46	1,401	—	1
							[310	8	29]							[310	8	29]
Total...	6,86,913	35	51	3,70,839	39	79	4,61,432	27	17	3,78,799	—	16	2,96,463	30	68	21,94,448	43	71
							[51,592	—	59]							[51,592	—	59]
Extraordinary Receipts.																		
Tuccavy Advances Recovered	—	—	—	—	—	—	—	—	—	445	28	74	3,761	41	24	4,207	25	18
							[576	13	13]							[576	13	13]
Charges Collection of Sequestered Zemindarries	2,104	18	51	—	—	—	—	—	—	—	—	—	—	—	—	2,104	18	51
Pensions	—	—	—	—	—	—	28	26	31	1,428	25	56	—	—	—	1,457	7	7
Law Charges in the Revenue Department	—	—	—	—	—	—	—	—	—	1	—	—	—	—	—	1	—	—
Deposits	—	—	—	1,221	33	29	12,211	43	28	—	—	—	—	—	—	13,433	31	57
Batta on Gain by Exchange	—	—	—	428	25	57	207	29	20	—	—	—	—	—	—	636	9	77
							[26	2	69]							[26	2	69]
Salary and Commission Refunded	980	17	11	1,144	20	29	—	—	—	23	36	29	340	—	—	2,488	28	69
							[17	2	34]							[17	2	34]
Charges Collection, &c. Refunded	—	—	—	11	43	47	—	—	—	—	—	—	—	—	—	11	43	47
Interest Account	3,858	12	31	974	36	19	—	—	—	41	1	37	587	4	47	5,461	9	54
French Possessions	2,243	1	3	—	—	—	—	—	—	—	—	—	—	—	—	2,243	1	3
Dutch Settlements	5,557	40	66	—	—	—	—	—	—	1,148	12	35	—	—	—	6,706	8	21
Total...	14,744	—	2	3,781	24	21	12,448	8	79	3,088	14	71	4,689	—	71	38,751	4	4
							[619	18	36]							[619	18	36]
Total Receipts of the Revenue Department	7,01,657	35	53	3,74,621	19	20	4,73,880	36	16	3,81,887	15	7	3,01,152	31	59	22,33,200	2	75
							[52,211	19	15]							[52,211	19	15]
Total Receipts of the Judicial ditto	1,592	20	69	5,430	8	66	—	—	—	1,686	44	48	1,147	36	73	9,857	21	16
Grand Total...	7,03,250	11	42	3,80,051	28	6	4,73,880	36	16	3,83,574	14	55	3,02,300	23	52	22,43,057	24	11
							[52,211	19	15]							[52,211	19	15]

Comparative View of the Collections of Land Revenue under the Two Systems of Management.				Comparative View of the fixed Charges Collection under the Two Systems.				Comparative View of the Salary and Commission Account,	
Years of the Old System.	Amount Collected.	Years of the New System.	Amount Collected.	Years of the Old System.	Amount Charged.	Years of the New System.	Amount Charged.	Old System.	New.
	Pagodas. F. C.		Pagodas. F. C.		Pagodas. F. C.		Pagodas. F. C.	Pagodas. F. C.	Pagodas. F. C.
1790-91......	15,28,412 31 59	1802-3	17,35,286 40 49	1790-91 ...	36,689 34 39	1802-3	41,003 22 33	41,925 20 42	54,062 32 64
1791-92......	14,91,405 21 38	1803-4	16,19,512 9 74	1791-92 ...	84,523 7 58	1803-4	34,993 13 5	77,779 24 16	41,179 33 50
1792-93......	14,70,812 11 0	1804-5	15,56,874 37 12	1792-93 ...	38,365 0 30	1804-5	25,224 14 54	63,913 33 72	34,941 26 30
1793-94......	16,09,809 32 54	1805-6	16,52,101 20 22	1793-94 ...	40,081 21 44	1805-6	26,489 10 32	56,297 13 0	33,123 26 59
1794-95......	18,78,271 29 7	1806-7......	15,94,093 2 61	1794-95 ...	38,720 11 15	1806-7	19,882 11 75	80,031 41 7	36,696 24 41
1795-96......	19,23,605 34 18	1807-8	17,53,145 40 46	1795-96 ...	59,532 26 70	1807-8	20,480 25 68	72,140 6 10	36,047 18 40
1796-97......	15,85,488 30 10	1808-9	16,72,590 23 23	1796-97 ...	56,169 33 39	1808-9	18,434 19 61	65,239 5 44	31,913 13 0
1797-98......	12,63,423 27 39	1809-10 ...	16,39,242 8 70	1797-98 ...	57,506 29 8	1809-10 ...	20,183 3 62	58,854 23 62	31,332 4 59
1798-99......	17,17,676 15 56	1810-11 ...	17,89,503 37 54	1798-99 ...	58,416 25 71	1810-11 ...	21,704 1 32	62,428 24 44	30,907 28 62
1799-800	16,73,993 10 56	1811-12 ...	17,72,567 27 1	1799-800...	60,400 13 73	1811-12 ...	22,225 40 47	64,496 25 8	33,300 12 59
1800-1	16,82,440 33 44	1812-13 ...	18,90,674 25 31	1800-1	51,396 32 54	1812-13 ...	22,051 14 2	66,511 4 67	41,646 13 37
1801-2	17,25,493 18 52	1813-14 ...	17,21,575 42 44	1801-2	59,100 24 24	1813-14 ...	21,901 16 33	69,123 7 69	37,209 17 3
Total...	195,50,833 26 33	Total...	203,97,169 1 7	Total...	6,40,902 36 45	Total...	2,94,573 14 24	7,78,741 5 41	4,42,360 27 24

Statement of the gross Collections, Charges (both Revenue and Judicial) and Nett Revenue of the Districts comprized in the Northern Circars for the Years 1790-91 *to* 1801-2, *and for* 1802-3 *to* 1813-14, *being for two Periods of twelve Years each under the former and present Systems of Collection and General Management.*

Year	Gross Collections of Revenue.			Charges of every Description. Revenue Department.			Judicial Department.			Total Charges.			Nett Revenue.		
	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.	Pagodas.	F.	C.
1790-91......	15,97,288	3	60	2,10,377	8	26	—	—	—	2,10,377	8	26	13,86,910	40	34
1791-92......	15,47,972	3	40	3,10,817	0	74	—	—	—	3,10,817	0	74	12,37,155	2	46
1792-93......	15,13,438	7	51	1,87,928	12	7	—	—	—	1,87,928	12	7	13,25,509	40	44
1793-94......	16,60,235	14	57	1,79,407	33	22	—	—	—	1,79,407	33	22	14,80,827	26	35
1794 95......	19,75,100	28	65	2,45,757	14	58	—	—	—	2,45,757	14	58	17,29,343	14	7
1695-96......	20,79,888	1	25	5,07,420	15	39	—	—	—	5,07,420	15	39	15,72,467	30	66
1796-97......	17,52,539	17	5	3,74,714	4	59	—	—	—	3,74,714	4	59	13,77,825	12	26
1797-98......	14,42,634	35	17	3,49,397	11	26	—	—	—	3,49,397	11	26	10,93,237	23	71
1798-99......	19,09,950	1	60	3,60,669	17	3	—	—	—	3,60,669	17	3	15,49,280	29	57
1799-800.....	19,05,827	16	44	3,84,745	21	2	—	—	—	3,84,745	21	2	15,21,081	40	42
1800-1........	19,47,349	29	18	4,19,651	30	71	—	—	—	4,19,651	30	71	15,27,697	43	27
1801-2........	22,03,805	7	31	4,54,929	34	65	—	—	—	4,54,929	34	65	17,48,875	17	46
Total...	215,36,028	31	73	39,85,815	24	52	—	—	—	39,85,815	24	52	175,50,213	7	21
1802-3........	21,36,755	31	13	4,12,976	8	39	45,117	23	31	4,58,093	31	70	16,78,661	44	23
1803-4........	21,17,762	30	20	3,15,688	24	20	1,12,088	13	51	4,27,776	37	71	16,89,985	37	29
1804-5........	18,35,574	38	18	3,51,184	16	31	1,48,324	38	15	4,99,509	9	46	13,36,065	28	52
1805-6........	21,03,726	18	71	2,33,520	41	7	2,09,888	38	74	4,43,409	35	1	16,60,316	28	70
1806-7........	19,17,193	32	7	2,14,117	15	42	2,29,678	3	19	4,43,795	18	61	14,73,398	13	26
1807-8........	20,31,723	28	73	2,06,012	22	53	2,06,356	20	6	4,12,368	42	59	16,19,354	31	14
1808-9........	21,78,013	18	45	1,79,570	8	4	1,69,706	0	59	3,49,276	8	63	18,28,737	9	62
1809-10......	21,16,079	9	24	1,96,785	15	56	1,62,808	16	39	3,59,593	32	61	17,56,485	22	18
1810-11......	23,42,357	13	73	2,10,405	22	25	1,70,675	6	41	3,81,080	28	66	19,61,276	30	7
1811-12......	23,87,705	26	32	2,26,281	41	9	1,59,660	10	16	3,85,942	6	25	20,01,763	20	7
1812-13......	24,90,947	18	4	2,62,754	30	72	1,50,085	11	67	4,12,839	42	59	20,78,107	20	25
1813-14......	22,43,057	24	11	2,19,231	38	21	1,48,116	36	3	3,67,348	29	24	18,75,708	39	67
Total...	259,00,897	19	71	30,28,529	14	59	19,12,505	39	12	49,41,035	8	71	209,59,862	11	0
	[43,64,868	32	78]	9,57,286	9	73	[19,12,505	39	12]	[9,55,219	29	19]	[34,09,649	3	59]

(A true Copy.)

REPORT *of the* BOARD OF REVENUE,
Dated the 18th December 1815.

To the Right Honourable Hugh Elliot, Governor in Council.

RIGHT HONOURABLE SIR:

Report of Board of Revenue, 18 Dec. 1815.

Par. 1. WE have the honour to forward, for the information of the Right Honourable the Governor in Council, the report required of us by the proceedings of Government, dated 1st March last, together with the reports of the several Collectors on the subject of the transfer of the duties of Magistrate and of Superintendant of Police from the Judge to the Collector.

2. We have not embraced in our proceedings the discussion of the orders of the Honourable Court, respecting the compulsory issue of pottahs, neither have we prepared the Regulation required. The information before us on the subject is so scanty, and the additional provisions, suggested as necessary to be added to the pottah Regulations, are so various, that we have not been able to determine on the best means of providing for the compulsory issue of pottahs. Most of the Collectors admit the fact that pottahs are not generally issued by Zemindars and others, but many also admit that the reluctance of the cultivators to receive pottahs is greater than that of the Zemindars to issue them. In truth, there appears much reason to believe that, under the present high rates of assessment, a compulsory law to enforce what ought naturally to be a private agreement between individuals might prove more oppressive than beneficial to the cultivators. Even under the ryotwar system, it is known that pottahs were seldom issued by Collectors till the season had very far advanced, and the actual state, not only of the *cultivation* but of the *crop*, had been ascertained.

3. We have also been desirous of considering this subject more fully, from observing it stated in Section 3, Regulation V., A. D. 1812, enacted in Bengal, that " such parts of Regulation VIII., A. D. 1793, and of Regulation IV., " A. D. 1794, as require that the proprietors of land shall prepare forms of " pottahs, and that such forms shall be revised by the Collectors, and which " declare that engagements for rent contracted in any other mode than that " prescribed by the Regulation in question shall be deemed to be invalid, " are likewise hereby rescinded, and the proprietors of land shall henceforward " be considered competent to grant leases to their dependent Talookdars, " under-farmers, and Ryots, and to receive correspondent engagements for " the payment of rent from each of those classes, or any other classes of " tenants, according to such form as the contracting parties may deem most " convenient and most conducive to their respective interests."

4. It has thus, after the experience of twenty years in Bengal, been left to both contracting parties, under the protection of the courts, to enter voluntarily into such agreements as their mutual interests may dictate. Concurring, at present, in the wisdom of this enactment, and finding no facts or arguments in the reports of the Collectors, now submitted, calculated to remove this impression, we request permission to delay the preparation of the required pottah Regulation till the subject has received fuller investigation and discussion.

We have, &c.

(Signed) ROB. ALEXANDER,
J. HODGSON,
J. COCHRANE.

Fort St. George, 21 December 1815.

Extract from the Proceedings of the Board of Revenue, under date the 18th December, 1815.

Read again the following letters, on the subject of the proposed transfer to Collectors of the duties of Magistrates and of Superintendants of Police.

 From

Report of Board of Revenue, 18 Dec. 1815.

From Mr. Spottiswoode, dated 10th, in Consultation 24th July 1815.

From Mr. Smith, dated 11th, in Consultation 20th July 1815.

From Mr. H. Oakes, dated 15th, in Consultation 27th July 1815.

From Mr. Russell, dated 2d, in Consultation 10th July 1815.

From Mr. T. A. Oakes, dated 4th, in Consultation 13th July 1815.

From Mr. Fraser, dated 19th, in Consultation 24th August 1815.

From Mr. Ross, dated 11th, in Consultation 21st September 1815.

From Mr. Chaplin, dated 15th, in Consultation 24th July 1815.

From Mr. Sullivan, dated 26th, in Consultation 29th June 1815.

From Mr. Grœme, dated 8th, in Consultation 14th August 1815.

From Mr. Hyde, dated 31st July, in Consultation 7th August 1815.

From Mr. Hargrave, dated 27th August, in Consultation 4th September 1815.

From Mr. Hepburn, dated 23d, in Consultation 29th May 1815.

From Mr. Lushington, dated 15th, in Consultation 20th July 1815.

From Mr. Cotton, dated 28th July, in Consultation 7th August 1815.

From Mr. Peter, dated 27th July, in Consultation 3d August 1815.

From Mr. Read, dated 27th July, in Consultation 10th August 1815.

From Mr. Warden, dated 31st July, in Consultation 10th August 1815.

Par. 1. From the proceedings * of Government, dated 1st March 1815, it would appear that the Board of Revenue are required to report on the expediency of the transfer of the Magistrate's duties to the Collector, in addition to the duties of Superintendent of Police; and, "in particular, adverting to "the other avocations of a Collector, are required to state whether they consider him capable of undertaking the whole duties of Magistrate, as laid "down in the Regulations, without increased assistance or preparations for this "new office."

2. It further appears, that the Board of Revenue are required "to prepare "and submit, through the Sudder Adawlut, the draft of a regulation for securing the enforcement of the rules respecting pottahs, by an adequate process under the superintendence of the Collector for rendering arrears of "rent not receivable except on pottahs, and for prohibiting Zemindars from "distraining property for arrears of rent without an order from the Collector."

3. The first subject divides itself into two branches:

1st. The transfer to Collectors of the police duties only.

2d. The transfer to Collectors of the Magistrate's duties, as performed under the existing Regulations, together with the superintendence of police.

4. The following is a summary of the advantages which appear to be expected from the proposed arrangement.

1st. The reduction of expense, by the abolition of the present Darogah and Tannah establishments, by substituting the native Revenue servants employed in the collection of the land revenue, land customs, in the salt and tobacco monopolies, and in other Revenue duties, as executive instruments of police.

2d. That the Judge, being relieved from the duty of Magistrate and the superintendence of police, will have more leisure to attend to the decision of civil suits, supposed to be much in arrear.

Greater efficiency in the police department.

1st. By placing all the Revenue servants, such as Tehsildars and others, who are now in some instances also employed by the Board Magistrate in police duties, under one master, who has the power to punish and reward them.

2d. By

* Judicial.

Report of Board of Revenue, 18 Dec. 1815.

2d. By placing the Potails, village Taliars, or other inferior officers of police, whose duties partake as much of revenue as of police, under one head superintendent.

3d. By placing the police under the Collector, who possesses the means, through various channels not open to the Magistrate, of obtaining early and more accurate information on subjects connected with the police of the country.

5. The objections to the transfer of the duties of Magistrate and superintendence of police to the Collector appear to be as follows:

1st. That it is contrary to the first principles of jurisprudence, and has hitherto been strenuously opposed by the superior Authorities in India, to vest executive officers of Revenue with judicial powers of any kind.

2d. The difficulty that is likely to be experienced by Collectors and their native servants, in districts of which the Revenue is not permanently settled, in discharging efficiently the duties of Magistrate and Superintendent of Police, in addition to their present detailed and very onerous revenue duties.

3d. That the Collector, in his capacity of Magistrate and Superintendent of Police, will be under the authority and controul of the court of circuit and the Sudder Foujdarry court, and liable to be called away from fiscal duties of importance to the state to judicial duties of importance to the state generally, but more immediately concerning individuals.

Preliminary Observations.

6. Courts of civil judicature were first partially established in the territories under the Government of Fort St. George, in the year 1802, and courts of criminal judicature were first established in the year 1803. The Northern Circars were ceded to the Company in 1768. The jaghire, now called the zillah of Chinglepout, was ceded to the Company in 1765. These territories, with a small extent of lands annexed to the settlements of Madras, Cuddalore or Fort St. David, Nagore, and Negapatam, formed, till the war of Mysore of 1792, the only territorial possessions of the Honourable East India Company on this side of the Peninsula. In 1792, the Company acquired by cession from the Sultan of Mysore what was then termed the Ceded Districts, now known by the denomination of the Salem and Barramahl provinces, and also Dindigul.*

7. From 1768 till 1803, or a period of 34 years, there existed no criminal jurisprudence, except such as was exercised by the local Zemindars, or such magistracial jurisprudence as was exercised by the Chief and Councils at Ganjam, Vizagapatam, Masulipatam, and Cuddalore, within the villages, or in some cases in the havally lands annexed to those chiefships.

8. A reference to the records of the Sudder Foujdarry will shew the number of criminals tried and punished annually since the establishment of the criminal courts. The quantity of crime prevented, under an apprehension of the consequences of punishment (an apprehension that can hardly be said to have existed for the thirty-four years preceding this event) can only be estimated.

9. The administration of civil justice was little better provided for, during the period referred to, than the administration of criminal justice.† The Chiefs and Councils held no regular courts, and in such cases connected with claims to property, or suits for damages for injuries sustained, as came before them as sitting Magistrates, they had no rules for their guidance in civil processes, no defined power to execute degrees, and often insufficient power to collect the revenue. The records of Government will shew the extent to which it was necessary in those days to employ regular troops and local corps of sibbendies in the preservation of the peace, the collection of the revenue, and the punishment of the refractory and rebellious. A rebel, when taken, could

* Malabar also, but this province did not come under this Government till 1800.

† The members of the Provincial Council by rotation acted as Magistrates, and in that capacity decided in cases of property, but in a very irregular inefficient manner.

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could not be tried for want of a competent court (unless by military law),* any more than a robber or murderer. If the Zemindars were incompetent or failed to administer justice to the inhabitants of their respective zemindarries; if no authority existed to assemble punchayets, to enforce the decrees, or to punish corrupt decision ; if the sovereign authority did not impose the duty of administering justice on any one, or did not exact the performance of the duty by pains and penalties ; if the duty was invested in any one by implication, it may fairly be assumed, that redress for wrongs sustained in persons and property, whether from public officers or private persons, could not be obtained by the inhabitants of the Company's territories, during thirty-four years of our possession of those territories. During this period there were no judicial or police charges ; but the military and sibbendy charges were enormous, in proportion to the security afforded to individuals or to the tranquillity procured for the state. †

10. In 1794 the office of Chief and Council was abolished in the Northern Circars, and these provinces were divided into collectorships, in number more than double the present. These Collectors might, perhaps, be considered as Judges and Magistrates of their respective collectorates. They were not so appointed, however ; and as the whole country was under Zemindars or renters of considerable tracts, and the realization of the revenue, owing to local evils of long standing, was attended with considerable difficulty, leaving each year large balances, the duties of Judge and Magistrate, if exercised at all, were considered of a very secondary nature. No rules had been laid down for the guidance of Collectors in deciding on civil suits, or for the discharge of the duties of Magistrate. No report of decisions was required to be made to superior authority, nor any appeal provided for. ‡ The discretion of the local officer alone was his guide, both as to the extent of duties he chose to perform in these departments of jurisprudence, and as to the punishment he thought it necessary to inflict in the Magistrate's department.

11. This was nearly the state of things in the other parts of the Company's territories on the coast. It might, in some cases, have been better, as it might in others have been worse, according to the inclination or capacity of the individuals in charge of the districts, respectively, or to the local circumstances being favourable, or otherwise, to the exercise of judicial and magistracial powers.

12. For some time after the establishment of the courts of circuit in 1803, but prior to the general establishment of the zillah courts in 1806, Collectors, in districts where no courts had been established, were continued as Judges and Magistrates of their respective zillahs. A Register was, however, appointed to each to aid them, and they had, at this time, the judicial code to guide them in their proceedings.

13. This short history of the civil and criminal jurisprudence, for the last half century, in the provinces under the presidency of Fort St. George, has been given in order to meet the fact, which might be urged as an argument in favour of vesting Collectors with limited judicial powers, civil and criminal, viz. that collectors had for a long time exercised these powers, and may be supposed as competent now to discharge the duties of these offices as they were at the period referred to. The same train of reasoning would, however, apply to the state of civil and criminal jurisprudence at a former period : and now, it might be said, "For fifty years the country has been governed without civil and "criminal courts, and may continue to be so governed for fifty years more." But, in these days, a more enlightened consideration is given to the subject.

14. The system of internal government has been gradually ameliorating in all its branches. The judicial and fiscal powers have been separated, civil and criminal courts have been established, and rules and ordinances enacted for each

* It being a matter of doubt whether military law could lawfully be declared in force, it was never resorted to, the Board believe, prior to 1799 or 1800.

† An examination of the military disbursements, during that period, will abundantly prove this assertion.

‡ An appeal to the Board of Revenue and to Government was *understood* to be allowed.

each branch of administration. The salaries of individuals in most offices have been increased, more arduous and more important duties have been expected from them. For instance, when the Board of Revenue was first constituted in 1786, the total revenues under that Board, all leased out in large rents, did not amount to forty lacks of Pagodas, scarcely to thirty. On the temporary assumption of the Carnatic, during the Mysore wars in 1784 and 1790, a separate Board was created to superintend the Carnatic revenue. The jaghire, now the zillah of Chingleput, was under charge of two Collectors; at one time of three: and in 1794, as already observed, the collectorships in the Northern Circars were nearly double the present number.

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15. The extension of the jurisdiction of Collectors in the old districts was rendered practicable by two causes: first, the permanent settlement of the land revenue; and, secondly, the separation from the Collector's office of the judicial and magisterial powers. The salaries of these Collectors, in consideration of their diminished duties and responsibility, as well as with a view to meet in part the expenses of establishing courts of justice, were reduced from Pagodas 3,500 salary, and one and a half per cent. commission, to Pagodas 4,800 salary, without any commission.

16. The extension of the permanent system, (an extension approved by the Honourable Court of Directors, at one time ordered to be carried generally into effect by the Supreme Government in 1804, and provided for in all the arrangements made up to the year 1808) would have led to the same result, generally, and would have diminished the duties and responsibility of collectors. During the last twelve years, the fixed revenue, in the zillahs of Ganjam, Vizagapatam, Rajahmundry, Guntoor, and Masulipatam, has been collected, to the extent annually of upwards of fifty-six lacks of Sicca rupees, or nearly sixteen lacks of Pagodas, with a facility formerly unknown, and without those voluminous references to the Board of Revenue, to Government, and to the Court of Directors, formerly so frequent, and that occupied time which the more important affairs of a Government, now extending over a territory nearly quadruple in size to what it was at that period, requires, should be bestowe don matters of superior importance.

17. In the zillahs of Chingleput and Salem, owing to over assessment, the permanent revenue has not been collected with equal facility, but the duties of the Collectors have been defined by Regulations; and although the Board of Revenue have been harassed with frequent references, the system has freed the superior Board from the superintendence of these troublesome details.

18. The system of decennial village lease rents would, to a certain extent, have relieved both the superior and inferior Board, as well as the Collectors, from these annual details. That system is disapproved, and the ryotwar system ordered to be introduced in all practicable cases. The detail of revenue management under this Government will, therefore, increase; and to this detail of land revenue management must be added the superintendence of the collections of the internal sayer or land customs, of the salt and tobacco monopolies, and of the Abkary revenue.

19. This short summary will shew that the revenue duties of Collectors are about to be increased, in a considerable degree, in the Northern Circars, and still more so in other districts, by the extension of the ryotwar system to all zemindaries, mootahs, and villages, which may lapse to Government: that although formerly, for a long period, Collectors were the only Judges and Magistrates, they were but nominally so, and, except in a few instances, were restrained by local causes, from exercising the powers belonging to those offices, and performed their duties under much less responsibility, and in a much more concise and arbitrary manner than they could now be permitted to do, or would venture to do, if again vested with the united offices of Judge, Magistrate, and Collector.

20. The amount of gross revenue at present under the superintendence of each Collector, as it stood in fusily 1224, or on the 12th of July last, is as follows:

Statement shewing the gross Collections of the public Revenue under the Superintendence of the Board of Revenue at Fort St. George, for Fusily 1224, or from 11th July 1814 to the 12th July 1815.

Districts.	Gross Collections in Fusily 1224, including every Branch of Revenue, and Recoveries.			Gross Charges in Fusily 1224, including every Branch of Revenue.			Net Revenue in Fusily 1224.		
	Star Pagodas.	Sicca Rupees.	Pounds Sterl.	Star Pagodas.	Sicca Rupees.	Pounds Sterl.	Star Pagodas.	Sicca Rupees.	Pounds Sterl.
Districts of which the Land Revenue is permanently settled.									
Zillah of Ganjam	3,56,875	11,62,920	142,750	35,159	1,14,570	14,064	3,21,716	10,48,350	128,686
... Vizagapatam	4,12,719	13,44,895	165,088	25,642	83,558	10,257	3,87,077	12,61,337	154,831
... Rajahmundry	6,65,685	21,69,215	266,274	50,961	1,66,063	20,384	6,14,724	20,03,152	245,890
... Masulipatam	4,10,991	13,39,264	164,396	36,079	1,17,568	14,431	3,74,912	12,21,696	149,965
... Guntoor, including Palnaud	5,17,835	16,87,428	207,134	42,573	1,38,729	17,029	4,75,262	15,48,699	190,105
... Chingleput	4,40,132	14,34,223	176,053	83,458	2,71,958	33,383	3,56,674	11,62,265	142,670
... Salem, Baramahl, and Ossoor, &c.	5,74,502	18,72,084	229,801	51,279	1,67,099	20,512	5,23,223	17,04,985	209,289
Total ...	33,78,739	1,10,10,029	1,351,496	3,25,151	10,59,545	130,060	30,53,588	99,50,484	1,221,436
Districts of which the Land Revenue is not permanently settled.									
Nellore and Ongole, including the zemindarry of Vencatagherry	7,54,078	24,57,254	301,631	1,11,656	3,63,844	44,662	6,42,422	20,93,410	256,969
Northern Division of Arcot, including western zemindarries, &c.	7,83,558	25,53,318	313,423	1,55,579	5,06,973	62,232	6,27,979	20,46,345	251,191

Southern Division of Arcot, including Cuddalore, &c.	6,95,970	22,67,902	278,388	1,20,955	3,94,046	48,382	5,75,015	18,73,756	230,006
Tanjore	12,50,440	40,74,710	500,176	1,93,218	6,29,624	77,287	10,57,222	34,45,086	422,889
Trichinopoly (In some of these districts the land revenue of a few zemindarries has been settled permanently.)	5,26,788	17,16,602	210,715	99,025	3,22,685	39,610	4,27,763	13,93,917	171,105
Madura	4,78,756	15,60,084	191,502	84,713	2,76,047	33,885	3,94,043	12,84,037	157,617
Tinnevelly	6,20,743	20,22,766	248,297	61,297	1,99,744	24,519	5,59,446	18,23,022	223,778
Bellary	10,50,051	34,21,718	420,020	1,28,773	4,19,622	51,509	9,21,278	30,02,096	368,511
Cuddapah	8,36,704	27,26,501	334,681	1,36,828	4,45,871	54,731	6,99,876	22,80,630	279,950
Coimbatore	6,47,022	21,08,399	258,809	1,61,795	5,27,228	64,718	4,85,227	15,81,171	194,091
Malabar	7,87,274	25,65,428	314,910	2,15,770	7,03,113	86,308	5,71,504	18,62,315	228,602
Canara	8,36,169	27,24,758	334,468	2,00,246	6,52,526	80,099	6,35,923	20,72,232	254,369
Island of Seringapatam	20,692	67,427	8,277	4,377	14,263	1,751	16,315	53,164	6,526
Madras and Government Customs	4,28,343	13,95,807	171,337	1,07,846	3,51,429	43,138	3,20,497	10,44,378	128,199
Total ...	97,16,588	3,16,62,674	3,886,634	17,82,078	58,07,115	712,831	79,34,510	2,58,55,559	3,173,803
Grand Total ...	1,30,95,327	4,26,72,703	5,238,130	21,07,229	68,66,660	842,891	1,09,88,098	3,58,06,043	4,395,239
Presidency.									
Board of Revenue	1,237	4,031	495	52,521	1,71,140	21,009	Deduct excess of charges. 51,284	1,67,115	20,514
Superintendent of Stamps	...	...	...	7,066	23,025	2,826	7,066	23,025	2,826
Final Grand Total ...	1,30,96,564	4,26,76,734	5,238,625	21,66,816	70,60,831	8,66,726	1,09,29,748	3,56,15,903	4,371,899

Note.—The rates of Exchange adopted in the above Statement are the following:—Pagodas converted into Sicca Rupees at the par of exchange and account rate of 325 Sicca Rupees and 862 decimals per 100 Pagodas. Pagodas into Pounds Sterling at the rate of eight shillings per Pagoda.

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21. The arduous nature of the duties required from the Collectors will not admit of being estimated by the ratio of the collections made by each. In some collectorships the revenue is collected with facility, in others with considerable difficulty; and this statement applies as much to settled as unsettled districts. In Canara, for instance, the gross collections are about £334,000, and in Tanjore £500,000. In these two provinces the duties of the Collectors will bear no comparison proportionate to the revenue of each. In Tanjore the care of the numerous important works for irrigation is not only a source of much anxiety and responsibility, but requires much personal superintendence.

Expense of the Judicial System and of the Police, and Expectations entertained of the Reduction thereof by the proposed Arrangements.

22. It is not, perhaps, the particular province of the Board to notice the subject; but as it has appeared to them that the revenue formerly assigned for police purposes, although in many instances incorporated by authority with the land revenue, has been lost sight of, it has occurred to them that it would be useful to state the amount of this revenue, and to suggest that a more distinct mode should be adopted of bringing the police receipts and charges to account.

23. Regulation XXXV, A. D. 1802, provides for the employment of Darogahs and Tanadars in the zillah of Chingleput, in lieu of the former cavelly or poligar watching system.*

24. Under this Regulation, an annual expense is incurred, including pensions to ousted Poligars, and high pay to well behaved Poligars, appointed Darogahs, of about Star Pagodas 15,000. By this arrangement an annual charge is exhibited, under the head of police charges, in the zillah of Chingleput, to that extent which, under the old system, when the Collector was head of the police, and Poligars and Cavilgars his instruments of police, did not appear as a charge at all.† These superior instruments were paid as the Taliars, the inferior instruments, in most cases are still paid, by assignments of revenue, and by deductions of revenue, before the gross revenue was brought to account, or by fees in grain taken from the gross produce, and certain pecuniary payments from each house.‡

25. The police charges in the zillah of Chingleput are actually less than the police receipts; but as the receipts are brought to account under the head of land revenue, the circumstance now stated, viz. the existence of a full set-off to the police charges in the zillah of Chingleput, does not now appear in any public account, and seems very likely to be soon forgotten.

26. A want of a knowledge of this set-off has evidently led to an erroneous conclusion, that the employment of Darogahs, Tanadars, and police Peons, has caused in the zillah of Chingleput, and in other zillahs, an enormous expense; whereas the Board will be able to shew, in a subsequent part of these proceedings, that this description of officers have only been substituted for the Poligars and Cavilgars under the old system of police, and that the expense under this new arrangement is less than that under the old plan.

Abstract

* Preamble. "The establishments existing in the zillah of Carangooly, for the purposes of "police, having been committed to certain Poligars and Cavilgars, have proved by long expe- "rience, under the administration of the said Poligars and Cavilgars, to be inadequate to the "prevention of crimes, or the apprehension of offenders, and have, by the abuse of the power en- "trusted to the Poligars and Cavilgars, been converted into additional means of disturbing the "order of society with impunity: wherefore the Governor in Council has resolved to abolish the "office of Poligar and Cavilgar, and to substitute a more efficient plan of police for the zillah of "Carangooly, under the following Regulations."

† Some items are included that are not police charges.

‡ By the Board of Revenue. "Mechanics, artificers, and others, paid appropriate fees in kind. "A carpenter gave a hammer; a weaver, a piece of cloth; a painter of cloth, a piece of painted "cloth, &c. &c. the equivalent in money."

Abstract Statement of the Police Fund in the Jaghire now the Zillah of Chingleput, and its Appropriation (See Mr. Greenway's Letter to the Board of Revenue), dated 30th October 1801.

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Actual privileges of fusily 1809........................... Star Pagodas		26,298¼
Deduct peshcush payable by the Poligars to Government...............		5,480
Net amount		20,818¼
Add: Rent in the new plan for villages made over to the Poligars superseded by the Darogah establishment, being those principally in which the Poligars and their ancestors had resided..................		573¼
		21,391
Charges:		
Life pensions to Poligars not employed in the new police, Star Pagodas	750	
New police:		
Five Darogah stations under police Darogahs, many of whom having been formerly Poligars, their pay was fixed on a high scale, and the subordinate tannah stations and Peons	*15,624	
		16,374
Estimated surplus in 1801..................		5,017

27. The police establishment in the zillah of Chingleput had been diminished since this period, the actual is, therefore, greater than the estimated surplus.

28. The practice established in the zillah of Chingleput has been previously introduced into Tinnevelly, and has since been extended to other districts.

29. Mr. Lushington, in his letter of the 7th of October 1800, writes from Tinnevelly, that the gross jumma of all established collections (Cavilly) in the Circar lands, for the past fusily 1209, amounted, under the various heads specified in the statement which accompanied his letter, to Canterai Pagodas 1,07,603, or Star Pagodas, 65,213 42 21.

30. Mr. Cotton, in the eighth paragraph of his letter, dated 28th July 1815, estimates the Cavilly russooms of Tinnevelly resumed at 53,800 Pagodas; and, in paragraph 9, states the Darogah and Tannah establishment to be very low. Two hundred and fifteen Peons only are employed.

31. In the eleventh paragraph of Colonel Munro's report to the Police Committee, dated 10th April 1806, it is stated, that "when the Mahomedan kings "of Golcondah and Beejapoor had driven the Byjinuggar Rayels from the "countries of which the Ceded Districts form a principal part, it appears that "they, at first, in some degree adopted the cavilly system, by continuing the "old Cavilgars, and in some instances creating new ones, either in favour of "persons by whom they had been aided against the Hindoo government, or "of chiefs whose reduction being difficult, it was deemed expedient to pur-"chase their submission by the grant of a valuable office. They soon, how-"ever, reduced the russoom or commission on the collections held by the great "Cavilgars from ten to five per cent. and at the same time resumed a great "proportion of the enam villages and lands. As they were hostile to the whole "cavilly system, they lost no opportunity of lessening both the per-centage "and the enams, of forcing the Cavilgar to commute his allowances for a "fixed sum much below their amount, and of stopping the whole wherever it "could be done with safety. By these means the cavilly per-centage in the "Ceded Districts, at the time of their conquest by Hyder Ally, had fallen from "about Canterai Pagodas 2,42,010 to Canterai Pagodas 36,125, and the enams "from

* It appears now to amount to Star Pagodas 14,755 37 79.

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" from about Canterai Pagodas 2,42,020 to Canterai Pagodas 97,158, and " during his government the per-centage was entirely done away, almost the " whole of the enam villages resumed, and the enam lands reduced to about " Canterai Pagodas 14,950, as exhibited in the Statement, No. 4."

32. In the twenty-sixth paragraph of the same letter, Colonel Munro estimates the Tallari privileges at 47,000 Star Pagodas. It appears clear to the Board, from the whole tenour of Colonel Munro's very able report above referred to, that on the supercession of the Poligars in the Ceded Districts, and on the survey being instituted, all the privileges of the Poligars merged in the land-rent; that is, the fees, &c. that the inhabitants paid to the Poligars were abolished, and their rent-free lands, if they possessed any, assumed.

" The present police establishment," observes Colonel Munro,* " is of the " same nature as that which existed under the Mysore Government. It is " composed of the village Talliars, of Cutwalls, and their Peons in the prin- " cipal towns, of guards of Peons in a few of the most dangerous ghauts. " Neither the great or the petty Cavilgars, in the Statement No. 4, can now " be regarded as police officers. Most of the great Cavilgars are Poligars, " who were expelled under the Mysore Government, and all of them are pen- " sioners receiving allowances from Government, either in money or land, not " for any services to be performed, but merely to induce them to live in quiet, " by leaving them no motive to plunder for a subsistence. The petty Cavil- " gars are also, on the same grounds, permitted to enjoy their allowances; " but no useful service is or can be got from them, for they have been too " little accustomed to subordination to obey the heads of villages, or even the " Aumildars, without compulsion. They are the remains of a race of men " who have always been dangerous to the tranquillity of the country. It is, " therefore, better that Cavilgars of every description should be regarded as " pensioners, from whom no service is to be exacted, and that their lands " should be gradually resumed on the failure of heirs."

33. This demonstrates, the Board think, that the cavilly revenue of the Ceded Districts has been added to the land revenue, and that Government in that district are bound to provide for an efficient police, at its own expense.

34. In the seventh paragraph of Mr. Hepburn's letter of the 23d May 1815, it is stated that the Committee appointed in 1813 to examine the state of the police in Tanjore, recommended the sequestration of the whole of the cavilly fees. This recommendation was adopted. The expenses of the new police amounted last year to 34,000 Star Pagodas, while the collections on account of the cavilly or police revenue amounted at the same time to 43,000 Pagodas.

35. In like manner, the cavilly mauniums and meerahs have been resumed, and are collected with the land rent in the northern and southern division of Arcot.

36. If the act of resuming the revenue assigned by the Native Government for police purposes had been extended to the incomes of the inferior officers of police, and those officers had been abolished, or made mere stipendiaries under the Darogahs or Thanadars, and their privileges in land, money, or in kind, had been added to the land revenue, it is manifest that what has occured, with regard to the superior instruments of police, would have taken place with regard to the inferior, viz. the receipt of an equivalent would in time have been forgotten, and the expense of providing for the security of the persons and property of the native subjects of the Company, would have been considered, as the police charges appear now to be considered, a heavy tax on the finances of Government.

37. The police revenue, under the Native Governments, was defrayed in part by the Government and in part by the people. The items forming the police revenue in the Ceded Districts are detailed by Colonel Munro in his report of the 10th April 1806, and may be taken as the history of the cavilly revenue in most provinces.†

" The

* Letter from Colonel Munro, 10th April 1806, paragraph 15.

† See ditto, paragraph 6.

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"The funds assigned for the support of the police establishment, as far as "they can now be known, appear to have been very ample. The Talliar had "the same enaum lands, and the same fees in money and in kind, as he now "enjoys. The petty Cavilgars' allowances arose from the following heads:

"1st. A village rent free, or at a quit rent.

"2d. A certain portion of enaum land in every village within his juris-"diction.

"3d. Marah, or an allowance in grain upon each plough, or upon the quan-"tity of seed sown.

"4th. Wurtanah, or an allowance in money paid by husbandmen on ploughs, "and by tradesmen on houses, shops, or looms.

"5th. Moolves, a small duty on goods passing through the country.

"6th. Fusqui, a small duty levied at fairs and weekly markets, on Shroffs in "money, and on other dealers in kind.

"The enaum village was granted to the petty Cavilgar only in particular "cases. His marah and wurtanah are supposed to have been nearly on the "same footing as they have been in later times, and the rates at which they "were collected to have varied in every village, from one fanam to twelve on "each plough, house, shop, or loom. His moolves, or duty on goods, was "from one roowa to one pice per gunny: it was levied wherever the Sirkar "customs were levied, and was usually, to save the expense and trouble of "a separate collection, rented to the custom farmer.

"The allowances of the head Cavilgar consisted of:

"1st. A certain number of enaum or rent-free villages.

"2d. Portions of enaum land in each village.

"These two heads of enaum villages and lands usually amounted to ten "per cent. of the land, and sometimes to more.

"3d. Marah
"4th. Wurtanah
"5th. Moolves
"6th. Fusqui } In the same manner as to the petty Cavilgars.

"7th. Ten per cent. on the gross collections of the Sirkar revenue."

38. An abstract of the judicial charges, of the police charges, and other judicial charges and receipts, is inserted hereunder, and credit is taken for the revenue which appears to the Board to have been assigned for defraying the expense of the judicial system.

Judicial and Police Charges.	St. Pagodas.	F.	C.			
Judges' and Registers' salaries	4,14,480	24	39			
Surgeons' salaries, allowances, and establishments	24,653	1	19			
Native establishments, civil and criminal	1,44,987	18	78			
	5,84,120	44	56			
Contingent Charges.						
Contingencies, rent of court-houses and jails, repairs of ditto, &c.	28,694	7	33			
Batta to witnesses and support of prisoners	35,194	22	39			
Extra charges	17,194	39	29			
Total Judicial				6,65,204	23	77
Police.						
Police establishment, including Cutwals and the Ganjam Sibbendy Corps				2,25,835	20	0
Grand Total of Judicial and Police Charges				8,91,039	43	77

Brought

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			St. Pagodas. F. C.
		Brought over......	8,91,039 43 77
Judicial Receipts.			
Fees, &c.	29,058 14 67		
Fines and forfeitures......	11,864 3 12		
Refunds of charges	10,666 8 76		
		51,588 26 75	
Police Receipts.			
By the Magistrate.........	2,128 32 23		
Police revenue, estimated to be included in the land revenue, or not otherwise shewn in accounts	2,14,166 0 55		
		2,16,294 32 78	
		2,67,883 14 73	
By net salt revenue		6,44,275 17 15	
Stamps		93,481 28 13	
			10,05,640 15 21
		Estimated Surplus	1,14,600 16 24

39. For the particulars of these sums see Appendix A.*

40. The Governor in Council may be surprised to see the revenue derived from the salt monopoly included as a judicial receipt. It appears, however, from the report of the Board of Revenue, dated 3d September 1799, which was approved by the most noble the then Governor-General in Council,† that this tax which has increased the price of salt from one and a half or two star pagodas to thirty star pagodas per garce, or nearly fifteen hundred per cent., was expressly declared to be intended to defray the expense of the judicial courts about to be established, for the protection of the persons and property of the native subjects under this Government.

41. In inserting the amount of the net salt revenue as a set-off to the judicial charges, the Board do not mean to maintain that the Government had not a right to impose this tax, or if imposed, that it is not appropriable to any other than judicial expenses. They have no other object than to shew that an additional tax, not in existence prior to the establishments of the courts, and proposed to be levied for the purpose of meeting the charge which the establishment of those courts would entail, has answered the end for which it was imposed.

42. The medical establishment, some part of the charges for the support of prisoners, all the charges paid for Cutwals and other police purposes by Collectors previously to the separation of the police from the Collectors, should be deducted, when the total charges resulting from the establishment of courts of justice are under consideration. The Sibbendy corps in the zillah of Ganjam is not a new charge. Sibbendy corps existed under the Collectors for many years in the Northern Circars, to a much greater extent than are now employed.

43. The amount of police revenue received by Government, but not brought to the credit of police charges, is estimated at Star Pagodas 2,14,166 0 55, and is taken from returns furnished by the Collector. By the Police Committee of 1814 the revenue appropriable to police purposes was estimated at Star Pagodas 3,70,000, as per Statement A, enclosure in their report. The first sum, the Board are of opinion, is under-rated: the latter sum includes revenue not resumed and revenue now assigned for the support of the taliari police. The amount, however, is sufficiently accurate to elucidate the question here discussed, but the Board have called for further information on this subject.

44. The

* Vide Enclosure A.

† To Government, dated 28th June 1804, paragraph 1.

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44. The Board here beg leave to suggest, that the head of "Police" in the public accounts should, in future, receive credit for its proper revenue. If authorized to communicate with the Accountant-General on the subject, the Board will have little difficulty in submitting to Government, for its final determination, a statement shewing the precise sum for which the head of "Police" is entitled to receive credit.

Leisure afforded to the Judge by the proposed Transfer of his Magistracial and Police Duties to the Collector.

45. This advantage will be admitted without hesitation, as the result of the Judge being relieved from magistracial and police duties.

The number of days in the year being........ 365
Deducting Sundays 52

313

Deducting three days in six, or half, for time appropriated to the discharge of the Magistrate's duties 156½

Remain......156 days for the administration of civil justice

From which again must be deducted a number of days for the Dussarah mohurrum, and other native festivals........000

Ditto, ditto, for the time the court of circuit may be at the station, or, at least, the time required to be set apart to prepare the documents required for that court,* part out of the criminal and part out of the judicial days 000

Time required to write reports on judicial, police, and other Magistrates' business, so frequently called for of late........000

Days lost by leave of absence, indisposition, and other causes 000

000

Leaving the number of days in a year estimated to be employed in deciding civil causes 000

46. It might then be demonstrated, by the evidence of figures, that a Judge has not many days in the year to appropriate to the hearing and trying of civil causes. It appears that the duties of Judges and Magistrates are not all equally arduous. In some districts the duties of Magistrates are extremely onerous: in others the duties of Magistrates are light, and those of the Judge heavy. In a few, the duties of Judge and Magistrate are not more than one individual can perform. If this statement, gathered from the Collectors' reports, is nearly correct, and its correctness can be best substantiated by the Sudder court, it is possible that the result of a general transfer, of the nature contemplated, might, in some cases, be to transfer the duties of Magistrates from a Judge, who has ample leisure to discharge them, to a Collector, whose time is already fully occupied with the multifarious and detailed duties already assigned to him.

Greater Efficiency in the Police Department.

47. If it can be established that there is no necessary connection between the duties of Magistrate and those of Superintendent of Police, the Board are of opinion that the measure of transferring to Collectors the police duties only, will produce both a saving of expense and greater efficiency in the police department. It is liable, however, to one very serious objection, viz. the possibility of Revenue officers perverting the powers of police to promote the interests of revenue. The necessity which unfortunately so often occurs of pressing supplies for detachments, or furnishing them for the use of the commissariat, opens a wide door to native servants to harass, in the Police department, those who may have offended them in the Revenue department. In the Ceded

* The duty of translating all documents for the court of circuit is represented as very heavy, and occupying much time. (See Mr. Ross's and Mr. Chaplin's reports.)

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Ceded Districts, however, the only superior officers now employed in the police, with the exception of a few Cutwals, and the asham or military Peons, are the native servants of the Collector, owing, as already stated, to the old cavelly system having been suppressed.

" No material alteration in the administration of the police, since the esta-
" blishments of the courts, has taken place," observes Mr. Chaplain,* " in
" the Ceded Districts, with the exception of the magisterial powers being
" vested in the Judge, instead of being as formerly in the hands of the Col-
" lector. No Darogahs having yet been appointed, the Amildars of districts,
" who form a part of the regular establishment of the Collector, are still the
" chief police agents under the Judge in each talook. In the transaction of
" their police business, they are assisted, as heretofore, by the heads of
" villages, and by the Talliars. They have also the aid, but in a more
" limited degree than before, of the asham or police corps. As far, therefore,
" as relates to the Ceded Districts, the only change contemplated will be that
" of retransferring from the Judge to the Collector the superintendence of the
" police, together with magisterial powers, thereby investing him again with
" authority and control over his own servants in the police department."

48. It appears to the Board to be certain, and most of the Collectors admit it, that a more vigilant controul can be exercised by them over their native servants, if under one head, although employed in two departments, than can possibly be exercised by the Magistrate over Revenue servants employed in the Police department, and unavoidably considering their revenue duties as of superior importance to their police duties. There is some danger of this opinion of the secondary nature of police duties continuing, and, as already stated, that either revenue affairs will be neglected for matters of police, or police affairs will be neglected for revenue duties. There are times of the year when, under the ryotwar system which is now about to be generally introduced, Revenue servants will be little able to bestow much attention on police duties. It has also been observed, that it is as incongruous to annex the performance of police and Magistrate's duties to a civil Judge, as it is to annex those duties to the office of Collector, and that it would be better to have a separate person in charge of the police and magistracy.† This, indeed, appears to the Board the arrangement to be preferred: still, if a separate police establishment is not allowed, the Revenue servants employed in the police would be under two masters, a measure very objectionable. This might, perhaps, be obviated by the following plan:

1st. Zillah Judges and their Registers to be relieved from all police duties, and from all magistrate duties, except in cases hereafter provided for.

2d. Collectors to be head Magistrates and Superintendents of Police in the districts under their charge.

3d. Assistants to Collectors to be deputy Magistrates and deputy Superintendents of Police.

4th. Collectors to be in future styled " Magistrates and Collectors of " Zillahs."

5th. Magistrates to be at liberty to delegate to their deputies the duties of Magistrate and Superintendent of Police, and to resume such powers when it is most advantageous to the public service that they should act themselves as Magistrates.

6th. Deputy magistrates, in all practicable cases, to have charge of the zillah jail, to reside at the station where it is erected, and the Magistrate's court to be held there. Deputy Magistrates to be fixed residents, unless in cases where the head Magistrate may consider it necessary to become a resident at the jail station, in order to depute his deputy on revenue, police, or other duties. Either the head or deputy, or an acting magistrate, to be always present at the station where the jail is erected, in order that the Magistrate's court may be shut as seldom as practicable, and the escape of prisoners be prevented by the personal vigilance and precaution of a Magistrate.

7th. The

* Paragraph 2. † Mr. Lushington, Paragraph 3.

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7th. The person acting as Magistrate under this Regulation to possess all the powers granted by the existing Regulations to Magistrates; but all orders issued in the police or Magistrate's department, and all summonses to be issued in the name of the Collector of the zillah, to bear his official seal, but to be signed by the person doing the duty of Magistrate.*

8th. In the event of the absence or indisposition of the Collector and his assistant,† or in other cases, to be competent for Registers, Assistant Judges, Commercial Residents, their deputies or assistants to act as temporary Magistrates, and to take charge of the jail. (The mode and manner of appointing them, or applying for their services, to be entered here.)

9th. All persons acting as Magistrates to be declared liable to a civil prosecution for damages, for abuse of the power vested in them to the injury of individuals. For criminal acts they are already amenable to the King's court at Madras.

The transfer of Magistrates' Duties to Collectors, contrary to the fixed principles of Jurisprudence.

49. This is not, perhaps, a branch of the discussion which it is the duty of the Board to notice; but as the general powers given to a Magistrate by the Regulations enacted for his guidance, and the special powers given by the following Regulations, viz. by Regulation I, A. D. 1805, for the salt monopoly, by Regulations I, II, and III, A. D. 1812, for the sayer, by Regulations VII and VIII, A. D. 1811, for the tobacco monopoly, by Regulation I, A. D. 1808, for the abkarry revenue, by Regulations IV and VIII, A. D. 1808, for the stamp revenue, would, on the transfer of the power and duties of Magistrate to the Collector, require him to exercise the powers of Magistrate, in hearing, trying, and punishing, to the extent warranted by the laws, all petty frauds on the land revenue under ryotwar, greater frauds in the sayer, salt, tobacco, and abkarry revenue, and other misdemeanours, it is the duty of the Board to notice the subject here, that such provision may be made in the Regulation now preparing, as may, in the wisdom of Government, appear proper, either for limiting, restricting, or extending the powers given to Collectors, as Magistrates, by those Regulations.

Mr. Read, the Collector in Canara, observes, paragraph 3 of his letter, "it "is the general opinion of the judicial servants who have been employed upon "this coast, that the number of criminals and work attendant upon them in "Canara, might alone occupy the time and attention of the most active "Magistrate. It is a province of great extent, and so fruitful of crimes, that "when the present Judge and Magistrate took charge of it, in the beginning "of January, he found four hundred and thirty-six persons who had been "apprehended at different times, but either not examined or not committed, "consequently was unable to enter on the trial of a single civil suit before the "month of May, the number of criminal examinations taken for six months, "ending the 30th June last, being no less than 1,367. Robberies attended "with murder have been extremely common, which necessarily leads to "longer and more intricate examinations than would be necessary in crimes "of less magnitude." The punishment of frauds committed in the custom, salt, and tobacco departments, Mr. Read adds, "are likewise extremely fre-"quent, and daily occupy a portion of the Magistrate's time." *Sic. orig.*

50. Several of the Collectors contend for the absolute necessity of transferring to them all or none of the powers now vested in Judges and Magistrates, and Superintendents of Police.

"Regarding the expediency of the proposed measure, I have uniformly "entertained," says Mr. Chaplin,‡ "the same opinion which I now hold, "that it would materially contribute to the efficiency of the police. The prin-"cipal,

* Remark.—This is necessary, because all the inferior officers are revenue servants. It will shew them that the Collector is the head of the whole.

† Remark When Collectors and assistants are sick, or on leave of absence, their duties must then be provided for. If a Collector is making a ryotwar settlement, he cannot be called off to take charge of the jail and Magistrate's office.

‡ Paragraph 3

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" cipal, as well as the subordinate police officers, the Aumildars, and the chiefs " of villages, being all revenue servants, are at present placed in the very " embarrassing predicament of being subjected to two distinct authorities. " The inconveniences arising from their being compelled to perform the pro- " verbially difficult task of serving two masters are of frequent occurrence, and " have not uncommonly produced that paralization in the exercise of their " respective functions, which the Honourable Court, in the nintieth paragraph " of their dispatch, have so truly and emphatically described to be the neces- " sary consequence of such a division of authority. It is obvious that a duty " to be performed under circumstances so irksome, must often be undertaken " with reluctance, and will therefore be executed imperfectly. In the discharge " of police functions almost every thing must depend on the zeal and energy " of the agents employed; but situated as they now are, with little to stimu- " late their zeal or to impel them to exertion, Aumildars, it must be confessed, " are sometimes but lukewarm in the execution of this service. Any extraor- " dinary instance of activity on their part may obtain the Magistrate's appro- " bation, but can produce no solid advantage to them; on the other hand, " their inactivity, however great, will seldom render them liable to a heavier " punishment than that of fine, and the Judge not having the power to dismiss " them, they are almost exempted from one of the most effectual checks upon " neglect of duty, which is the dread of removal from office. The Collector, " on the contrary, has not only the means of inciting, but also of compelling " them to an active performance of their duties. He has often opportunities " of rewarding those whose conduct is meritorious by promotion to offices of " higher responsibility and allowances, and he will at once recommend the " removal of those whose culpable inactivity may render necessary the adoption " of such a measure."

Mr. Chaplin proceeds:* " Yet should the arrangement recommended by " the Court of Directors, of transferring the *duties* of Magistrate from the au- " thority in whose hands they are now vested, be adopted, much of the future " efficiency of the police will depend on the *degree* in which the magisterial " *powers* are, at the same time, made over to the Collector. If, in his magis- " terial capacity, he is not allowed to have the same ample authority as is now " possessed by the Judge as Magistrate, or if, in other words, he is to be in " anywise a subordinate officer of police, appointed merely to be the interme- " diate instrument under the Judge for the apprehension of offenders, then I " think, and I have no hesitation in submitting the free declaration of my " sentiments, that he will prove a very cumbrous and useless addition to the " police establishment. The want of due authority will frequently render his " exertions abortive; and by depriving him of the means of inspiring respect, " his appointment will become of more detriment than advantage to the police " department. The administration of criminal justice, under such a modifica- " tion of the system, will be more tardy and circuitous than before; for all " offenders that are apprehended must, in the first instance, be sent by the " Aumildars to the Collector, instead of going, as they now do, direct to the " Judge. Before the Collector witnesses must be summoned and an inquiry " entered into, without which he cannot judge how far the offences charged " against the prisoners are of such a nature as to warrant their being brought " to the Magistrate's cognizance. Whether the Collector may deem it right " to dismiss the complaint for want of proof to establish it, or whether he may " think it expedient to send it on to the superior Magistrate for his decision, " there will frequently be a difference of judgment as to the propriety of the " step which he has pursued. This discrepancy of opinion will inevitably " tend to occasion a collision between the Magistrate and the Police Superin- " tendent, which will by no means contribute to the advantage of either the " public or police service. Where the Judge and the Superintendent happen " to be fixed at the same station, the process will not certainly be quite so cir- " cuitous as I have above represented; but the probabilities of a clashing of " their authority will increase in an exact ratio with the propinquity of these " two officers, and of their respective establishments of servants. Instead of " being curtailed, which I presume to be an object of the change of system, " the

* Paragraph 4.

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"the business of police will be nearly doubled; for the Superintendent must "have a separate set of official servants, independent of that of the Magistrate, "which will cause a considerable increase of expense to Government.

"After the most * deliberate consideration that I have been able to give to "the subject, I am persuaded that the establishing the Collector as a medium "of communication between the Judge and the Aumildars, will prove a very "troublesome arrangement, without producing in the slightest imaginable de- "gree any advantage to the police service. I am also of opinion, on the "grounds which I have taken the liberty to set forth, that the transfer of "*magisterial duties* necessarily involves the transfer of *magisterial powers*, and "that the former cannot be efficiently performed without the exercise of the "latter. I apprehend, further, that it will be inexpedient to impose upon the "Collector the ungracious office of apprehending criminals, without, at the "same time, conferring executive authority upon him; and equally impolitic, "considered with reference to his respectability as a revenue officer, to reduce "him to the subordinate situation of a police agent under the Judge, into which "he must of course sink, if he possesses in the same department inferior "powers, and is compelled to refer to his principal a great majority of the "cases that come before him. In a word, it clearly appears to me, on my per- "haps imperfect view of the question, that the change, to be advantageous, "must be complete; that the full magisterial *powers* must go hand in hand "with the magisterial *duties*, or that they should remain altogether as they "now are under the Judge.

"There† are a few considerations which may, perhaps, dictate the expe- "diency of continuing to the Judge, as Magistrate, his present powers, within "the limits hereafter to be defined of the station at which the court is holden. "The principal of these is, that, as local Magistrate, he must have magisterial "authority to maintain a proper discipline within the jail, the care and manage- "ment of which must, I imagine, still rest with the Judge; for if transferred "to the Collector, the arrangement would in many instances occasion consi- "derable expense to Government, inasmuch as it would become necessary, "either that a new jail should be built at the stations of the Collectors (which "are, in many collectorates, at a distance from those of the court), or that "new cutcherries and treasuries should be erected for the Collectors at the "court stations. Another consideration is, that the constant residence of the "Judge at the principal town of the zillah would enable him to conduct the "police of the station more effectually than could be done by the Collector, "whose avocations must often lead him to distant quarters of the zillah. For "these reasons, I would beg to recommend that the Judges should, *quatenus* "*magistrates* possess a limited local jurisdiction.

"It‡ may probably be objected to the proposed change of system, that "Collectors ought not to be entrusted with magisterial powers, because they "may be improperly exercised for revenue purposes. To this objection I can "only reply, that the line between the two offices appears to me to be so dis- "tinctly drawn, that it cannot be easily transgressed: should any irregularity "of the sort occur, Government will not find it a difficult matter to provide a "remedy. The bare possibility of power being abused is no good argument "against the use of it; for under such a mode of reasoning, it might be equally "objectionable to entrust executive *magisterial* authority to the *judicial* officers, "who now possess it."

Mr. Ross observes, § "I have already stated that it would be desirable, "could it be done, to have a separate officer to perform the duties of Magis- "trate, but that not being practicable, those duties must be entrusted either "to the Judge or to the Collector. That there are objections to entrusting "the powers of Magistrate to one who is so immediately interested in, and "responsible for the due realization of the revenue, as the Collector is, I am "fully aware; but I am by no means satisfied that they are stronger than "those which exist against putting those executive functions into the hands of "the very person whose duty it is to check and control the abuse of them; "and it is a subject that will admit of much discussion, whether the abuse of "magisterial

* Paragraph 5. † Paragraph 6. ‡ Paragraph 7. § Paragraph 9.

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" magisterial power will not be better checked by being kept in the hands of a
" separate person, even though that person be Collector, than by being en-
" trusted to the very officer whose duty it is to administer that restraint and
" check, but whose credit and interest are thus concerned in concealing, in-
" stead of bringing to light and punishment, the abuses in the department.
" There will, in the one case, be a real appeal from the acts of the Magistrate
" to the Judge; in the other, there is none, or at least, what is equal to none;
" for an appeal to the individual who has done the injury against his own act
" hardly deserves the name,* and it would be difficult to persuade the natives
" of India that, in such a case, there is any appeal at all."

Mr. Grœme observes:† " At a time that it is proposed to deduct from the
" power of the courts of circuit, in order to strengthen the hands of the Magis-
" trates, it can hardly be thought necessary to transfer the magisterial depart-
" ment to Collectors with impaired authority. They should be permitted to
" exercise, at least, the full powers at present vested in the Judges as Magis-
" trates, or the system cannot be expected to be efficient.

" I‡ cannot say that I correctly comprehend what would be the distinct
" duties of the police, and what of the magisterial department, if the two were
" separated and divided between the Judge and the Collector; but I sup-
" pose them to be that the Collector is to have the power of causing of-
" fenders to be apprehended, whom he must send to the Magistrate, who
" will punish or commit them to trial, as the case may be. In such an ar-
" rangement there would be the inconvenience of multiplying the channel of
" communication in the progress of an affair towards the Magistrate's Court;
" and any order or recommendation arising out of the investigation of the
" case, which the Magistrate might think it necessary to give, would be less
" efficiently executed in having to take the same circuitous course.

" On§ the transfer of the police department to the Collector, the Judge
" would have no establishment under his orders in the interior, to carry into
" effect any measures which would still rest with him as Magistrate, respecting
" affrays punishable only by him, the regulation of weights and measures, re-
" pairing of roads, and other affairs, which it is difficult to define to what de-
" partment they ought to belong, unless the Tehsildars, who, I presume,
" are to be the police darogahs, should be made subject to their direct au-
" thority as well as to the Collectors, an inconvenience which it is desirable to
" avoid."

Mr. Warden observes: || " The magisterial powers, in every view of the
" subject, should I think, remain as they now are, distinct from the revenue.
" Vesting both in the same person would subvert that controul which is indis-
" pensable to good government.

" Vesting¶ the Collector with the superintendence of police, as proposed by
" the Honourable the Court of Directors, with limited powers of punishing
" petty offenders, appears to be an arrangement which might be introduced
" with the best effect. In exercising the power of punishing petty offences,
" the Collector's proceedings might be liable to the superintending controul of
" the courts of circuit. Much of the present police establishment, particu-
" larly the thannah stations, might be done away, and much facility would
" be ensured to the collection of the revenue. It would do away those clashings
" of authority which now prevail, and which the refractory avail themselves of,
" to the serious detriment of the revenue: it will give time to the Judge and
" Magistrate to devote fuller and better attention to the more important parts of
" his magisterial and judicial functions."

Mr. Hepburn observes:** " In respect to the first point, that of vesting the
" whole magisterial duty in the Collector, I have no hesitation whatever in
" saying that, as far as my opinion goes, I consider it quite impossible for the
" Collector to undertake so important and laborious a department in addition
" to

* Note by the Board. " It has escaped Mr. Ross's recollection that there is an appeal to the " court of circuit from the acts of the Magistrate."

† Paragraph 3. ‡ Paragraph 4. § Paragraph 5. || Paragraph 2.
¶ Paragraph 3. ** Paragraph 2.

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" to his own. The extent of the Collectorates is in general so great, and the " detail of collecting the revenue has been so much increased since the universal " introduction of the courts, as to afford, in general, ample employment to the " Collectors in the performance of their own proper duties. The simple col-" lection and administration of the revenue, however, as the Board well know, " by no means comprehend the whole of a Collector's duty, which is so multi-" farious as to connect him with almost every public department and office in " the civil branch at Madras, besides many of those belonging to the military " department likewise. In this respect, the situation of Collectors is generally " changed of late years. I recollect when I was first appointed an Assistant " in the Revenue department, the Collector, under whom I was employed, had " only the Board of Revenue to transact business of all kinds with: his ac-" counts were all forwarded to them, his cash remitted to their treasury, and " excepting an occasional letter to Government or to the officers commanding " stations, his whole correspondence * was confined to that with the Board of " Revenue alone. Since that time, however, the number of departments with " whom the Collector is connected in business is very greatly increased, and I " annex a list of more than twenty different heads in the margin,† and some of " them very numerous in themselves, with which I find a correspondence is " conducted by this office, independent of Government and the Board, and of " the numerous miscellaneous letters which so extensive a charge must give " rise to. The very superintendence of this English correspondence, together " with the greatly extended size of the collectorates, will shew that there is " already full employment for a Collector's time. But, even if it supposed that " the Collector's exertions are not entirely required in the duties of revenue, " there still appears another and a great objection to constituting him sole Ma-" gistrate, which is, that his present avocations produce such very unequal " demands upon his time and attention, that he can never reckon upon either " of them with sufficient certainty to allow so important a department, and one " in which delay is so dangerous, to be superadded to his present functions. " There is no doubt but that, at some seasons of the year, the mere business of " the revenue does not afford entire occupation to a Collector; but then, at " other times, it is sufficient to engross the whole of his attention, and that, " too, sometimes for months together, and in such a manner as to make it " impossible for him to divide his mind between it and any other branch of the " service. I know well that, in the district, there is a period of several months " in the year, which commences with the payment of the heavy kists and lasts " till they are all collected, the annual repairs made, and till the advances " are arranged and the next year's cultivation is fairly commenced, when it " would be quite out of the Collector's power to superintend the magisterial " department in addition to his own, and the reveuue duties are at no time of " a nature, but particularly at that important period of the year, to allow " of their being delayed. Each must be provided for at its own proper sea-" son; and if, through delay, this opportunity passes away, the occasion is " for ever lost, and public disadvantage inevitably ensues. What then would " become of the magistrate's duty? It must either be neglected or the revenue " must, and they are both of too important a nature to be placed in a predica-" ment where the neglect of one or other must ensue. Besides the usual du-" ties of a Collector, he is frequently called upon for the performance of ex-" traordinary ones, as from being connected with so many departments, he is " considered more or less to belong to all, which renders him constantly liable " to calls of this nature that likewise bear very unequally upon his time, and " make it impossible for him ever to be able to reckon upon it at any period " with

* Note by the Board of Revenue. The public correspondence of Collectors has no doubt greatly increased of late years, but with some of the departments enumerated above the correspondence is very limited.

† " The Accountant-General, Civil Auditor, Sub-Treasurer, Postmaster-General, Government " Lottery, Stamp Office, Commissariat Department, Mint Committee, Pension Fund, Judge, " Assistant Judge, Magistrate, Register, Political Resident, Commercial Resident, Paymaster, " Surveyor-General, Superintendent Tank Repairs and Estimate, Commanding Officers, Vac-" cinators, Collectors of sea Customs at all the Ports, Collectors of land Customs in all the Pro-" vinces, Post-masters in all the Provinces, Detachments marching, Import Warehouse-keeper."

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" with certainty, and for that reason rendering him an improper person to be
" sole Magistrate.

" Although,* for these reasons, I am of opinion that it would be imprac-
" ticable to place the entire charge of the magistracy in the hands of the
" Collector, yet I think, if he could be made an acting magistrate as well as
" the Judge, it would be an arrangement highly beneficial to the country at
" large; for although the Collector cannot command his time with sufficient
" certainty at all seasons, to enable him to undertake the whole duties of Ma-
" gistrate, yet there are many valuable hours, in the course of the year, which
" he might dedicate to that object with great public advantage, and particularly
" in repressing the lesser offences, the sufferers from which often grudge the
" expense, trouble, and delay of resorting to the Magistrate's court to pro-
" cure the punishment of the offenders. This description of duty could be
" particularly well performed by the Collector and his assistants, especially
" during their frequent tours through the districts; and their being Magis-
" trates, and thence having authority to inquire into the state of society, would,
" by this considerable extension of European agency, be productive of very
" happy consequences to the community at large. So far, I think, the execu-
" tion of the plan would be highly advisable; but to carry it to its full extent
" appears to me impracticable, without risking injury to the two far most im-
" portant branches of the civil administration.

" This subject,† I conclude, refers also to the proposed plan of placing the
" police under the Collector, to which the same objections will equally apply
" as those relating to the magistracy. Without some guide as to the nature
" of this plan, it is difficult to be able to say much about it; but I cannot help
" fearing, if the Collector is constituted Police-master, without being at the
" same time entrusted with the powers of Magistrate, it will place him and
" his establishment in a very inefficient situation, and will leave him with a
" most important duty to perform, without affording him the means of dis-
" charging it satisfactorily. The authority which the agents of police possess,
" and which enables them to execute their functions, is from being at the same
" time the Magistrate's officers: if these two are separated, the Police-master
" will be left without the power of enforcing any of his orders, and his sub-
" ordinates will be liable to prosecution for the most ordinary discharge of their
" duty, which, as officers of the Magistrate, they would be fully justified in
" so executing. If the Police-master is to be permitted to commit offenders
" for trial, it would seem that he might be entrusted with the whole authority
" of a Magistrate, if this most important branch of it is confined to him.
" The duties of the police and the magistracy are so nearly allied, that it ap-
" pears almost impossible to separate them, without rendering the police to-
" tally inefficient. To conduct the duties of it at all, the power of appre-
" hending persons, and the powers of restraint till examination, must be in-
" vested in that officer; and this power of personal restraint is a high branch
" of the magisterial office, and is so indispensable to the other department,
" that, without it, it could not exist. It is to be presumed, therefore, that
" to this extent the power of the Magistrate must, of necessity, be assigned
" to the Police-master."

Mr. Lushington very justly observes‡: " It is not, I am sure, saying
" too much, that the interference of judicial authority has frequently been
" beneficially interposed between the inhabitants and the Revenue servants.
" The Collector and his servants are naturally anxious to collect the reve-
" nues, and cannot view a matter at issue between themselves and the Ryots
" with that dispassionate coolness which a magistrate would do, without any
" interest in the question at issue. It is true that the Revenue officers might
" not abuse their trust, and use their police powers in collecting the revenue;
" but it is by no means impossible, or indeed improbable, and therefore ought
" to be guarded against by the legislature."

Mr. Fraser observes:§ " In the district under my charge the Magistrate's
" department is so limited, in comparison with what is the case in other col-
" lectorates, that inconvenience would not be felt by the transfer thereof to
" the

* Paragraph 3. † Paragraph 4. ‡ Paragraph 9. § Paragraph 2.

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" the Collector's department, in the same degree that would probably arise
" in other places, where the case is different; nevertheless, as it must be ad-
" mitted that there is more business of a nature directly revenue than the
" Collector can easily undertake, while there happens to be very little duty in
" general in the zillah court, it is apparent that the transfer of the whole
" duties of Magistrate to the Collector, would obviously overload an office
" already sufficiently occupied without any apparent necessity. I have al-
" ways been of opinion, that the Collector ought to be invested with a certain
" portion of magisterial authority, to be exercised more particularly in parts
" of the district at a distance from the ordinary range of the sitting Magis-
" trate; but it seems to me, that if sufficient power is vested in him to carry
" on the police duties, as is now in contemplation, it will be better that the
" functions of Magistrate remain, as now, in the hands of the zillah Judge."

Mr. Hargrave observes:* " In the first place, I take the liberty to state
" that, independent of my revenue duties, which would not allow me to exe-
" cute, in a satisfactory manner, those of a Magistrate, a great obstacle to the
" proposed transfer seems to offer itself in the very unsettled state of a Col-
" lector's residence. His occasional visits to different parts of the collectorate
" would cause a very inefficient discharge of magisterial functions; or, if
" those were properly attended to, he would be obliged to neglect his duty as
" a Revenue officer."

Mr. Peter states:† " As your Board must be so well acquainted with the
" numerous duties which at present call forth the attention of Collectors, it
" would be needless for me to point them out; I shall, therefore, only offer
" it as my opinion, that they are of such a nature as to render them unable to
" undertake the whole of the duties of a Magistrate, as vested in him by the
" Regulations, without neglecting some of those which now require their con-
" stant consideration."

51. These quotations furnish the principal arguments used by the Collectors, for or against the transfer of the Magistrate's powers and duties to Collectors; the Board have, therefore, inserted them in the body of their proceedings.

52. In the Northern Circars, where the land Revenue is permanently fixed, and collected with a facility not experienced in other districts, Messrs. Spottiswoode, Smith, T. Oakes, H. Oakes, and Russell, recommend that the duties of Magistrate and of Superintendent of police should be transferred to them. Mr. Russell states, however, that the town and large pottahs at Masulipatam will furnish exclusive employment for one Magistrate, and that separate provision must be made for the discharge of Magistrates' duty in that place, in the event of the transfer, either by continuing the present Judge as Magistrate, or appointing the Collectors' assistants local Magistrates.

53. The collector, as Superintendent of Police only and not Magistrate, would, some of the Collectors apprehend, be responsible to two authorities, the superior criminal courts and the Board of Revenue. The Board do not, however, consider this circumstance to afford valid objection to the measure.

54. It will be found that some Collectors think it advantageous that a Magistrate should move about the district, or rather think that a Collector moving about, and having authority to act as Magistrate, would prove a great benefit to the people.

55. The Board are not aware of any advantage to be derived from an itinerant magistracy, that would not be better obtained by a fixed station for the office: but to increase the number of Magistrates would, no doubt, be a great advantage, particularly where the range of a Magistrate's limits are so extensive as to require persons to travel, in some instances, from one hundred to one hundred and fifty miles. It will, of course, be for the Governor in Council to decide whether Collectors shall have Magistrates' powers, and Judges shall be deprived of them, or both shall act as Magistrates.

* Paragraph 3. † Paragraph 2.

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Heads of Villages to be made Potail, and employed in deciding Civil Suits, in discharging certain Magistracial Duties, certain Police Duties, and in the Ryotwar Villages in performing certain Revenue Duties, and to perform their Duties without Remuneration.

56. The Board are aware that in the Ceded Districts of 1792, now denominated the Zillah Salem, as well as in the Ceded Districts of 1800, now the Zillahs of Bellary and Cuddapah, and in Coimbatore, the practice has been established for the Collector to select one or more of the inhabitants of each village to be the officiating Potail or Potails, and to pay him or them from the revenues of certain lands assigned by the native government in enam tenure to the heads of villages collectively. Whether the making that tenure a special service tenure of one, which was a general tenure of all, is an innovation or not, it is perhaps now difficult to determine; but the Board believe it to be matter of fact, that from Ganjam to Cape Comorin, east of the Ghauts, the word "Potail" is not known, and that the office, as vested by authority exclusively in one person, does not exist. In some of the districts enumerated, the enams held by the head inhabitants have been resumed, added to the land revenue, and the equivalent has been annually disbursed as monthly pay to the selected Potail, who has thus become, to all intents and purposes, a stipendiary officer of the Collector.

57. The duties performed by Potails, in the districts above-named, were performed, prior to the introduction of the ryotwar system into the Carnatic, by Monigars, Turcufdars, or Parbuttees, officers appointed and paid by the Government, and are so performed at this day in the zillah of Chingleput, and in all the alienated villages of the Carnatic. The enams held by heads of villages were not resumed, and were not considered, the Board have reason to know, as held on the sole condition of performing *precise* revenue, police, or judicial duties:* They were considered as held in virtue of a right derived as descendants of the first settlers of the village, as an acknowledgement of a superior or preferable right of occupancy, and as some remuneration for the performance of the general municipal duties of the village. These municipal duties are various, and often unconnected with the services due to Government. In Tinnevelly, the Collector states that the inhabitants never performed police duties; and this the Board believe to have been the case in Trichinopoly.

Mr. Hepburn, the Collector in Tanjore, observes †: "It may not, perhaps, "be considered irrelevant to the general subject of the proposed changes, to "state in this place, that one of the principal of them, and one from which "great results seem to be reckoned upon, must have been framed upon a "state of things considerably different from that existing in this province: I "mean the civil and criminal powers to be vested in persons denominated the "Potails, and in the Curnums of villages.

"From ‡ the best information I have hitherto been able to obtain upon this "subject, I cannot find that there exists now, or ever did exist, such a per-"sonage as a Potail. The Board know that the whole of the land in this "province is private property, murassee. In some cases the whole of the "lands of a village belong to one person; in others they are divided into from "two shares to five hundred in a village, each the property of a separate in-"dividual, all of whom have a direct and common interest in the village, and "claim an interference in the administration of its affairs. Of the first de-"scription of villages there are 1690, in which the sole Meerassadar, doubt-"less, has a considerable degree of authority, and he might perhaps be got to "exercise the functions expected of a Potail. Of the latter description there "are

* Note in Mr. Fraser's diary for August of the 14th day.—"A Tehsildar requests to know "whether he ought to put in the statement, as required by Colonel Munro, the names of the whole "inhabitants who are enjoying the enams allotted to the head inhabitants, or those only who "were nominated by the circar as head inhabitants." In answer, the Tehsildar is directed to put in the statement the names of the appointed head inhabitants, and not any other.

† From Mr Hepburn, 23d May 1815, paragraph 17. ‡ Paragraph 18.

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"are 3134 villages; but in what manner is the system to be conducted in "them? Hitherto the Meerassadars have all been upon an equal footing "with each other: and even if the difficult point was got over, of selecting "which amongst them is to be constituted Potail, how can it be expected "that these persons, who till now have stood upon a footing of perfect equa-"lity with him, will submit quietly to his authority, which he will, of course, "exhibit to them in the most offensive manner, that of assuming the entire "controul of the affairs of the village, in the management of which they have "hitherto borne as great a part as himself? and if any authority is attached "to his office, there can be but little doubt that it will be exercised in the at-"tainment of the object of all others the most gratifying to his feelings, that "of being undisputed superior in his own village. From what is known of the "disposition of the people here, there can be little difficulty in saying that "they never would patiently submit to the controul that is proposed to be "vested in one of their own body, and still less will they submit their causes "to arbitration, if money or time can procure either another tribunal or delay "in the settlement of them. As little would they consent to the interference "of the Curnum in their disputes. These officers must be on a very different "footing here from the one contemplated in the plan; as, so far from having "any thing like an influence amongst the Meerassadars, it is but very lately "that they were their own servants: and it is one of the most difficult tasks "to get the Curnums to consider themselves as officers of Government, and "to do their duty independent of the Meerassadars. It can only be in a "country in a much more backward state of civilization than this, where the "Curnum is of the consequence contemplated in the proposed system; there "his knowledge of accounts, and the dependence which the generality of the "inhabitants must have upon him, from their ignorance of reading and writing, "gives him a degree of consequence, which in such a province as this, inha-"bited principally by Bramins, all of whom can read and write, does not be-"long to him. His acquirements in these particulars impart no importance to "him here, and he consequently falls into his own proper place in society ac-"cording to his caste; which being generally a Suder, places him in a rank "far below that of the Meerassadars, when they happen to be Bramins, which "the greatest proportion of them are. They would, therefore, scorn the idea "of having their affairs and disputes investigated and decided on by a person "whom they consider as so much beneath them in every respect."

"Some little difficulty," says Mr. Sullivan, the Collector in Chingleput*, "may appear to present itself at first to the introduction of the new system of "police into this zillah, from the situation of the Meerassadars. There is no "description of person amongst them answering exactly to the Potail or "Reddy of the neighbouring countries. Each village, however, has managers "(Prevuttah †), who are entrusted with the entire control of its concerns, and "who are remunerated by the body of Meerassadars for all expenses that may "be incurred by them on the public account. In some of the villages, the "village enams are occupied entirely by the managers, to the exclusion of "the other meerassadars. The number of managers in the larger villages, is "generally four, sometimes five; in the smaller, three, two, and occasionally "one.

"The management of some of the villages was held by the ancestors of "those who at present have the authority, and who derived it either from "their possessing the largest shares in the lands, or by appointments from the "Circar; in others, when there is an equality in the shares, the managers "are selected from their superior intelligence and ability.

"There will be no difficulty in selecting one or two persons in every village "from amongst these managers, to fulfil the duties which are to devolve on "the heads of villages in other districts. Nor do I imagine that such a pro-

"ceeding

* From Mr. Sullivan, in zillah Chingleput, 26th June 1815, paragraphs 19 to 23 inclusive.

† Note by the Board of Revenue.—Supposed to mean Parbutty. The Parbutty appointed by Government is paid by the inhabitants, so long as the village remains under Aumanie. When rented to the inhabitants, they may either employ a servant of this nature or manage the concerns themselves: the Government does not interfere.

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" ceeding would create jealousy in the minds of the other inhabitants, pro-
" vided the appointments are made by the Circar, and the proportion of fees
" to be attached to the office regulated by the same authority.

" In villages where the lands are divided nearly in equal proportions be-
" tween Brahmins and Shudras, it will be necessary that one of each caste should
" be appointed to conduct the duties of the headship.

" It is in the knowledge of the Board that, long previous to the constitution
" of the courts, people were in the habit of resorting from all parts of the
" Deckan to Conjeveram, for the purpose of obtaining decisions upon im-
" portant causes concerning castes, inheritance, marriage, adoption, &c. from
" the learned Shastrees who were assembled there by orders from the Aumil-
" dars as punchayets.* The numbers of people qualified for taking cog-
" nizance of disputes of this kind is not at all diminished, and perhaps the
" revival of their powers, under judicious Regulations, might be made produc-
" tive of extensive benefits."

" In this district," says the Collector in Tinnevelly,† " the head inhabitants
" and Curnums do not appear hitherto to have had any concern in the police
" of the country. The cavel system was formerly established here; and the
" Poligars, now Zemindars, were the Cavelgars, having the assistance only
" of the Talliars in the villages, and being made pecuniarily responsible for all
" robberies committed within the limits of their respective cavels."

" Independent of assisting to collect the village rents, the Potails," observes
the Collector in Canara,‡ " adjust the proportion of supplies, whether of
" coolies or provisions, required at any time from their villages, and attend
" upon the Shanbogues, when necessary, to assist them in forming their ac-
" counts, being naturally well acquainted with the cultivation of their villages.
" They likewise attend, at the period of settlement, both by Tessildars and
" myself, to afford any local information wanted. These are their principal
" duties; nor would it be practicable, under the ryotwar system obtaining
" in Canara, to form or collect thé settlement without them. There is like-
" wise an inferior, but most useful description of people, called Oogranies,
" subordinate to them, who assist both the Shanbogues and Potails in all their
" duties: Of these there are generally one, and sometimes two in every
" Mogani.

Sic. orig.

" The Shanibogues are paid from four to ten rupees monthly, in proportion
" to the amount collected by each, or about one and a quarter per cent. The
" Potails are paid by a per-centage also upon their village rents, of seven-
" ninths per cent., varying from half a rupee to twenty rupees annually, but
" averaging in bekul nine rupees and a half. The Oogranies receive from
" one to three rupees monthly. Neither of these people received any fixed
" pay during the Sultaun's government; but as the Asophs and Aumildars
" could not do without them, they were always privately supported by con-
" tributions permitted to be made for them. They were, besides, always
" favoured in their rents, and exempted, in a great measure, from various
" burthensome duties exacted of the other inhabitants.

" Most of the Shanbogues in the four northern Talooks claim their appoint-
" ments as hereditary; but the number of these to the southward of Onore
" are much fewer. This descent of duty is not found to impede the public
" service, for when the incumbent, from youth, age, or any disability, is un-
" able to discharge the duties, a deputy is constantly employed, who shares in
" the pay while acting. Under the Sultaun's Government, many wishing to
" become Shanbogues paid a nuzzar for it, and even now the situation is in
" general eagerly coveted; but that of Potail seems to be held in less estima-
" tion. Many instances can be adduced of Potails in Canara throwing up their
" situation

* Note by the Board of Revenue.—These references, the Board have reason to believe, were confined to matters of importance, connected with religion, caste, marriage, &c. and has little to do with the ordinary administration of justice.

† From Mr. Cotton, 28th July 1815, paragraph 7.

‡ From Mr. Read, 15 November 1815, paragraphs 3 to 5.

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"situation, proceeding, I imagine, from the following causes. In our early "settlements it was soon discovered that the rent of almost every Potail was "much lower than those of the other Ryots, which, though justifiable in former "times, when subjected to various exactions and burthensome duties, was no "longer so under our Government, and they have all, in consequence, been "gradually raised to the common level. It was, likewise, found that, in all "village supplies, they evaded contributing their personal share either of pro- "vision or coolies, throwing all the burthen on the other Ryots."

58. The ryotwar system was first introduced in the western countries above the Ghauts. It originated with Colonel Read in the Ceded Districts of 1792, now the Salem and Baramall districts, and was not attempted to be introduced below the Ghauts till 1801.

59. It is not material here to enter on a question of such intricacy as the right of Government to appropriate the whole of the enams belonging to the head inhabitants, or inhabitants generally, to the payment of one or more head inhabitants, selected to perform the duties of native Judge, Magistrate, native Superintendent of Police, and native Collector: neither do the Board doubt the practicability of procuring an inhabitant of each village to undertake these offices. They doubt the justice, they question the right of Government to appropriate to this person, exclusively, privileges and immunities long enjoyed conjointly with others. It should also be recollected, that the decisions passed on this question by the Revenue Authorities have been the result of their own interpretations, from which an appeal can hardly be said to have existed. Be this as it may, there is little reason to doubt that the offices will be readily undertaken, even gratuitously: but how far it will be prudent to grant such powers to persons, either not paid at all, or not adequately paid, so as to place them beyond temptation to betray their trust, is a question for consideration in another department. In Coimbatore, the office of Potail has recently been stated to have been *actually purchased:* if so, it must have advantages independent of the enams, or pay in lieu of them. Indeed, experience has shewn that, whenever a native is vested with power, he will very generally convert that power into the means of procuring private emolument. The very general and too notorious charges of corruption brought against arbitrators, prior to the establishment of the zillah courts, and the strong objections still entertained to that mode of settling causes, may be taken as evidence of this fact; and Mr. Ravenshaw's statements, alluded to by the Honourable Court of Directors, respecting the oppressions committed by head inhabitants on the inferior Ryots, if correct to the full extent, must be admitted as further evidence of the abuse of the power hitherto vested in head inhabitants, and its perversion to purposes of fraud, injustice, and private gain.

60. To conclude: if the duties of Superintendent of Police can be so defined by Regulation as not to interfere with the duties of Magistrate; if the Magistrate can be restricted from interfering in the details of Police; if adequate powers can be given to Collectors to conduct the duties of police in an efficient manner; the Board are of opinion, that the duty of superintending the police only should be transferred to Collectors. That duty, in addition to the various other duties required of Collectors under this Government, will occupy their whole time in most districts, and require that they should always have the aid of one, and in some districts of two European assistants.

61. The Board conclude, that it will be determined in the Judicial department, whether it is necessary or expedient to grant to Collectors, as Superintendents of Police, any of the powers at present exercised by Magistrates. Many of the Collectors, it will be observed, argue strongly in support of the necessity of their being Magistrates, as well as Superintendents of the Police of their respective districts, in order to enable them efficiently to perform the duties of Superintendents of Police.

62. The Board consider it proper to call the attention of Government to the observation, made by Mr. Grœme, in the twenty-second and following paragraphs of his report, on the subject of punchayets, and the administration of civil justice under the present system.

63. In

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63. In the reports of Messrs. Chaplin, Ross, Grœme, Lushington, Hepburn, Cotton, Warden, and Sullivan, will be found various detailed information, which the Board have not considered it necessary to notice more particularly.

(True Extract.)

(Signed) J. HANBURY,
Secretary.

See Table of Judicial Charges and Receipts annexed.

ORDERED, That the foregoing letter do lie over.

MINUTE *of* ROBERT FULLERTON, Esq.
Dated the 1st March 1816.

Mr. Fullerton's Minute, 1 March 1816.

In the preceding Minute I have given my opinion, founded entirely on my own experience and observation in the course of service. It was written before I had the means of perusing any of the reports from the judicial department. The only papers submitted to Government, previous to its conclusion, were the Reports of the Collectors on the transfer of the police, sent up as they came in by the Board of Revenue, and at the close, the Report of that Board itself on the same subject. None of those papers appear to require from me any particular remark.

The opinion of the Board of Revenue coincides with mine, that the transfer to the Collectors of *the whole functions of Magistrates* would be unadvisable, as imposing on them more labour than they could well perform; that the superintendence of police might, with advantage, be made over, provided the two are susceptible of separation. That they are so, I trust I have already proved. On this part of the subject, the transfer of police to Collectors, I have nothing to add to my previous observations.

The report of the Sudder Adawlut on the Regulations proposed by the Commission is now before the Government, which I have attentively considered.

The Commissioners were appointed to carry into execution the modifications directed and suggested by the Honourable Court of Directors. The preparation of the Regulations for that purpose became the first duty of their office; and, in conformity to the established system of Government, it was necessary to transmit them through the Sudder Adawlut, in order that they might undergo the revision of that court and be recorded in the judicial department.

In submitting the Regulations through the channel of the Sudder Adawlut, the object on this, as on all similar cases, was *not to alter the substantial provisions* directed by superior authority, but to amend informalities, to prevent contradiction and incongruities, to see that the necessary revisions and amendments of old provisions affected were made, so that the new might stand in the general code of Regulations; the duty which, it must be presumed, that court, from practice and experience, must be more qualified correctly to perform, than the executive officers of Government in other departments.

In considering the report now before us, I cannot but express my regret to find, from the minute of the Third Judge, that there has not existed that cordial co-operation between him and the First and Second Judges of the Sudder Court, the expectation of which led to the nomination of Mr. Stratton to the joint office of Judge and Commissioner; for although the draft proposed by the Commissioner, like many other drafts, on their first preparation, contains irregularities of expressions and want of arrangement, which required correction, still it appears to me that misunderstandings might have been explained, and many trifling errors might have been rectified, and further discussion, in a certain degree, rendered unnecessary. In the shape, however, in which those proceedings have come before Government, another reference to the Commission has become indispensable; and until their reply is received and considered, Government can proceed no further.

The draft proposed by the Sudder Court being, in respect to form and compilation, more correspondent with judicial precision, should be preferred, and the Regulations forthwith prepared for promulgation, with such alteration in substance as Government may, in their judgment deem fit. For the explanation of my ideas on this point I beg leave to refer to the accompanying paper. (A.) It is unnecessary to enter into particulars here: the alteration will be found to correspond with the reasonings and arguments I have already used. Independently, however, of mere forms of enactment, the Sudder Adawlut have entered into discussion, at some length, on the *general tendency of the alterations* directed, which seem to me to require observation.

The arguments of the Sudder Adawlut may be divided thus: first, as relating to the general incompatibility of the office of Potail and village Judge; secondly,

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secondly, the objections to vesting that office in renters and their servants; and generally, as to the abuse of oaths and forms. Their reasoning is founded on general principles, and in that view is *unanswerable*. If we are, in this case, to be guided by general principles, the whole system must be abandoned.

But it must be recollected we are proceeding on avowed deviation from those principles, in search of a practical good. Our object is to administer speedy and summary justice on petty disputes to the lower order of the people, without expense to them, and without additional charge to Government. The selection of heads of villages as Judges is the only one within our reach, without additional expense, and the dispensation with form, as far as possible, affords the only means of bringing into operation the speedy administration of justice. The appointment of regular native Judges would defeat the end of economy, and the application of general principles and establishment of regular forms would defeat the expectation of speedy justice. We are proceeding much on the same ground on which are established courts of conscience in other countries: courts which act without regular form, record, or appeal, presuming that, when the amount at issue is so small, the benefit of celerity of decision predominates over regularity of form and consequent delay. If the native character were such as to authorize our trusting them with such a summary and uncontrolled administration of justice, forms would, in this case, be unnecessary. As we cannot entirely banish form, we must reduce it, as far as we can do it with safety, preserving it only when indispensable, to oppose, check, and control to the tendency to abuse. We are endeavouring to call into action the ancient institutions of the country, on the presumption that the vigilant eye of European superintendence, and the confidence reposed by natives in appealing to it, will divest the system of those evils and inconveniences that did certainly accompany it where no such superintendence existed. It is on this ground, but not on general principles, that I concur with the Sudder Adawlut in thinking the Regulations proposed by the Commission to be incomplete. They have not sufficiently opened the channel of appeal to admit of the salutary operation of control. It is on this ground that I consider the appeal, not on the merits of the suit only, but on the whole form of proceeding, should be open not to another native, the district Moonsiff, but to the European Judge. The Moonsiff, in the summoning of punchayets and other functions, acts ministerially. A certain rule and mode of proceeding is laid down for him; but without responsibility to abide by that rule, of *what use are its provisions?* If the decisions under his authority are reversible only on their merits, and corruption alone is to bring him before the zillah court, a wide field is open for abuse. He might, for example, appoint the whole punchayet of the least of one of the parties, fine ten rupees instead of five, and confine weeks instead of days. Without appeal against such acts, where is the security to the people against the annoyance thus placed in his power? The oath may, indeed, be dispensed with; but the liability to prosecution, not for corruption only, but for all acts *wilfully done contrary to regulation, whereby any person may be aggrieved,* is indispensable for the due maintenance of that degree of superintendence contemplated by the Honourable Court. In considering complaints against village Moonsiffs, zillah Judges should act on the same principles that actuate the courts in England where justices of the peace are concerned. Due allowance must be made for inadvertent error in form, and penalty enforced only for wilful perversions and injustice.

These remarks I mean to apply only to the observation of the Sudder Court, as they relate to the Potail Naidoo Reddee, or constitutional head inhabitant. In so much as they relate to the powers of Moonsiff being vested in renters or servants of renters (not being head inhabitants), I cannot but agree with them entirely. It never could have been in the contemplation of the Honourable Court, that such a description of people should be employed in the administration of justice. The whole of the arguments of the Honourable Court are founded on the ancient institution of the country: they embrace only the hereditary officers of the village. Such officers being renters does not disqualify them for the office of Moonsiff, although the junction of the two was not in contemplation of the Honourable Court, and they have disapproved of the revenue arrangement that united them. But if the renters under the Collectors in unsettled districts (not being head inhabitants) are objectionable, how much

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much more so must be the renters under Zemindars, and, as the Sudder Court justly style them, their hireling servants? The terms used by the Commission in their draft are general, and much latitude is left with the Collectors for selection; and I confess it did not occur to me, until reading the proceedings of the Sudder Court, that the Commission contemplated making the renters under Zemindars the Moonsiffs. I do not consider that the mere renting of the village destroys the office, or even affects the mauniums or fees of the Potail, any more than it annuls the right of occupancy on the meerassy inhabitants. Because, therefore, a village is rented, it does not follow that the head inhabitant is disqualified from being Moonsiff, for the head inhabitant is still the person whom the village officers will obey. I am aware that, in some villages decennially rented, the Potail's enaum is in part transferred to the strange renter, the emoluments are taken away, and the functions of the office transferred by a direct act of authority: and in those villages, certainly, a difficulty unforeseen by the Honourable Court presents itself; but it is one that I must say, with regret, arises, not certainly against orders come too late, but in contradiction to their intention, and I am afraid against right. I doubt if Government ought not to restore to the Potail the emoluments and the exercise of his office, and rather compromise with the renter, than persist in an arrangement of doubtful legality, and in direct contradiction to the orders of the Honourable Court, and which contravenes the system of judicature directed by them. To conclude this part of the subject: I object to vesting the power of Moonsiff in any person not being the head inhabitant of a village, because such delegation of authority is not sanctioned by the orders of the Honourable Court. Their directions are founded on the presumption of every village having its head inhabitant; and if it be found that, in any district, such a personage does not exist, it must follow that the system is not applicable to that district, and ought not to be abruptly introduced. In all districts where I have ever been, there does, to my knowledge, exist such a description. The doubts I have heard started in other places gave rise to the impression I have often expressed, that a very strict inquiry, as to persons to fill the office, in all districts, should precede the general promulgation of the Regulation. Before Government sanction a legislative enactment, vesting certain powers in a certain description of persons, they should be satisfied by something stronger than tradition, by local inquiry and report, that such are in existence as described.

In the present stage of the proceedings of the Commission, it appears to me to be highly desirable that a precise and distinct line should be laid down by Government for their guidance, and the following I consider to be the course they ought to pursue. A minute investigation ought to be made by them on all the points connected with the arrangements in every district.

The number of villages, and the requisite number of Moonsiffs and heads of village police, should be ascertained; their general character and mode of remuneration; whether they still continue to hold the maunium understood to have been originally attached to the office of head inhabitant; and lastly, whether any and what means are necessary to ensure to them adequate reward for the labour expected. The same inquiries are necessary in respect to the village watcher, the efficient part of the police establishment. It is unreasonable to expect labour without adequate recompence; and if such be not publicly allowed, it will be derived from undue and unauthorized exactions from civil suitors, or by compromise with offenders.*

Another point of the utmost importance must be attended to, which can only be done with effect by the Commissioners, and may, in some districts, require investigation in person, viz. a minute scrutiny into the right of occupancy of all lands held free, or at a low rent, supposed to have been granted for police purposes. A distinct report should be submitted on this subject, with the recommendation of the Commission to take legal means for obtaining possession of the lands, or of calling on the occupants to perform the service under which the lands are held. It is understood that mocassa and cuttoobody

 lands

* It may perhaps be found, that in some districts head inhabitants acted without fee or enaum. It may perhaps be argued, that they will act so again: but it will probably be found that the motive of former action was the benefit of the irregular influence derived, and that the expectation of the same benefit is the motive for future action.

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lands in the Northern Circars have been excluded from the assets of the zemindarries at the time of the permanent settlement, and the holders have never yet been called on to perform, under Government, the services for which they were granted, but still continue to consider themselves the servants of the Zemindars. The above being the only source from which funds can be drawn to support the regular police establishment, I consider the investigation to be one of the most important parts of the duty of the Commissioners. Adverting to the known zeal and ability of the First Commissioner, the opportunity of availing ourselves of his services on this occasion ought not to be missed. Having ascertained those points, and brought into action the municipal village police, the Commission should endeavour to reduce the regular stipendiary police establishments when they have been fully introduced, and place them under charge of the Collector; and if it be determined to promulgate the new Regulations without further reference to the Supreme Government, the period of promulgation should be left with the Commission. They should be printed in English and in the native languages, and published in each district, whenever the Commission satisfy Government that the persons directed by the Honourable Court as the instruments for conducting the system are in their places, and that the necessary preparatory arrangements are made; for it must be recollected, that serious difficulties may arise by the too precipitate introduction of new forms, and that errors on the outset produce confusion not easily rectified.

1st March, 1816. (Signed) R. FULLERTON.

MINUTE *of* R. FULLERTON, Esq.

Dated the 8th March 1816.

Mr. Fullerton's Minute, 8 March 1816.

After an attentive perusal of the letter from the Honourable Court of Directors in the judicial department, dated 29th April 1814, I considered it an essential part of my duty, as a Member of Government, to record the observation that occurred to me on the various orders and suggestions contained in that letter, involving points of so much importance to the civil government of these provinces. With that view, I had prepared the Minute No 1, the contents of which are grounded entirely on the personal experience derived from a long course of service, and were written before I had seen any reports from the judicial department, called for by the resolution of Government, under date 1st March 1815. The only public reports referred to in the Minute No. 1 are those from the Revenue department on the transfer of the police to the Collectors, and the report from the Commission with the drafts of proposed Regulations. The Minute No. 2 contains the observations that occur to me on the proceedings of the Sudder Adawlut, on the subject of the drafts above stated. It was not originally my intention to have recorded my sentiments on the subject until all the reports had been received. So much delay has however occurred, and the proceedings have taken such a course, that I cannot reconcile to myself the propriety of further delay in bringing my sentiments on record. I shall only observe, that if those sentiments should, in any way, be affected by further communications from the Sudder Adawlut or the Commission, I shall freely state the ground for such alteration, after all the reports have been received and considered.

Before closing this, it may be necessary to remark that, although my name stands in the list as chief judge of the Sudder Adawlut, the commercial letter from the Hononrable Court of Directors of ...., rendered my presence at the Board of Trade indispensable, under the arrangement directed to be made for the future management of that department; and as the members of the Board of Trade are now reduced to two, I entertain doubts whether, under the spirit of the Honourable Court's order, it be not requisite that I should continue to preside at the Board of Trade.

8th March 1816. (Signed) R. FULLERTON.

JUDICIAL COMMISSIONERS *to* SECRETARY *to* GOVERNMENT,
Dated the 20th April 1816.

To the Chief Secretary to the Government, Fort St. George.

SIR:

Report from Judicial Commissioners, 20 April 1816.

We have the honour to acknowledge the receipt of Mr. Secretary Hill's letter, dated the 1st March, transmitting for our consideration and report a copy of the proceedings of the Sudder and Foujdarry Adawlut on the Regulations laid before the Right Honourable the Governor in Council, with our letter of the 15th July last, and also the re-drafts of those Regulations therein referred to, and recommending to our particular attention the arrangement proposed by the Sudder Adawlut in the drafts of our Regulations.

2. We have carefully considered the Sudder Adawlut's proceedings and re-drafts, and in conformity to the desire of the Right Honourable the Governor in Council, we have given a particular attention to their proposed arrangement of the provisions contained in our drafts. As we had no predilection either for the form or for the provisions of these drafts, farther than as they seemed to be well calculated to answer the purposes for which they were intended, we have, in the accompanying revised Regulations, adopted the arrangement and the language of the Sudder Adawlut, where they were thought better than our own; and we have also, at their suggestion, omitted some clauses and added others, wherever we were satisfied that the change would be useful: but in every instance where we were convinced that their alterations were in opposition to what we conceived to be the essential principles of the Regulations in question, or were in any way likely to impair their efficiency, we have adhered to our original drafts.

3. It could not be expected that our drafts, embracing so many, and in a great measure such new objects, should be free from error. We conceived that it was the intention of Government, in referring them to the Sudder Adawlut, that every error should be removed; but on an examination of the re-drafts of the Sudder Adawlut of the two first Regulations only, we have noticed several errors, of which a list is given in the Appendix, No. 1.

4. In order to furnish a clear and connected view of the material points in which the revised drafts differ from the original drafts, as well as from those of the Sudder Adawlut, it will be advisable to go through them in succession, noticing each deviation that occurs, and assigning the reasons which have induced us to adopt, or to reject, the supposed amendment. It is not our design to make any answer to the *criticisms* of the Sudder Adawlut on our verbal errors or omissions, or to their arguments drawn from an interpretation of the sense of some clauses, which we do not think are supported by the obvious meaning of the words: it will be sufficient that our explanations extend to such matters as are of real importance.

The Village Moonsiff Regulation.

5. The first Regulation to be considered is that of the village Moonsiff. The most material points of difference between the revised and original draft of this Regulation lie in our having taken away from the Moonsiff his jurisdiction in suits for real property, and make his decision final in all cases of personal property, not exceeding ten rupees. The Sudder Adawlut have shewn the inconvenience likely to arise from the village Moonsiff exercising a jurisdiction in real property. They have remarked, that cases of inheritance must be referred to the opinion of the law officers of the zillah court; that the village Moonsiffs were not competent to make those references, in such a form as would enable him to declare the law on the particular points to which its application was required; and that his time would be unprofitably occupied, in unravelling a multiplicity of ill-stated cases.

6. We have yielded to these arguments: not that we apprehend that many of these cases, but that some, might come before the Zillah Judge. There are very few landed properties of so small a nature as that to which the Moonsiff jurisdiction is limited. Of these few, at least nineteen in twenty are Hindoo; and the Hindoo laws of inheritance are so simple, as to be as well understood

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stood by the heads of villages as by the Pundits of the Courts. But as the Mahomedan laws of inheritance and succession are intricate, some cases of Mahomedan landed property might require reference to the zillah court; and we think that more inconvenience would be occasioned by bringing the village Moonsiff into communication with that court, than by withdrawing from him all jurisdiction in matters of real property.

7. In depriving the village Moonsiff of jurisdiction in matters of real property, we have enlarged his jurisdiction in cases of personal property, by making his decisions, which before were appealable, now final. This change appears to be consistent with the spirit of the orders of the Court of Directors,* which recommend that the decisions of the village Moonsiff, in all suits referred to him by the zillah Judge, should be final, because it is probable that most of these suits would be above ten rupees, as hardly any person would go so far for so small a sum; and though the Honourable Court do not propose that the decisions of the village Moonsiff, when acting on his own authority, shall be final, yet as they recommend that his referee decisions shall be final in cases of particular description, not exceeding in value an amount to be specified, and as this referee jurisdiction has not been given to him, the authority now proposed to be vested in him will not, on the whole, be greater than what was recommended by the court. As his jurisdiction is limited to ten rupees, which is barely the price of the most common bullock or buffaloe for the plough, we are convinced that the rendering his decisions final will be productive of great benefit to the inhabitants; and as they may be set aside for corruption, or gross partiality, as he is himself liable to prosecution for corruption, or any aggravated act of misconduct, and as the whole matter of dispute is within ten rupees, there can be no reasonable cause to fear that he will often be tempted to abuse his authority.

8. The Sudder Adawlut have objected to the retrospective jurisdiction of twelve years given to the village Moonsiff by our original Regulations, and suggested that the period should be limited to two years. Their objection to the term of twelve is, "that the effect of a like provision, in regard to the courts "established by the Regulations of 1802, was to burden them with twelve "years arrears of business, which had accumulated under the defective institu- "tions of the native Governments." We adhere to our former opinion, and have inserted the period of twelve years in our revised Regulation; because most of the petty suits which will come before the village Moonsiffs have originated since the establishment of the zillah courts, and have been accumulating ever since, from the difficulty and expense of trial being greater than the matter was worth, and because it is but just that our judicial system should make provision for the discharge of arrears, which it has itself been the means of accumulating. The Sudder Adawlut seem to have had the same principle in view, when they observe "that it could not have been deemed unjust, had all "the old causes been referred for decision to the institutions existing when the "causes originated."

9. It is not likely that the proposed measure would throw any great load of business upon the village Moonsiff; for even if we suppose that the number of unsettled litigations amount to a hundred thousand, it will not, on an average, give more than two or three to each village. Some villages might have none, others might have ten or twelve; but the whole would probably, in every instance, be disposed of in the course of a few months.

10. In our revised regulation we adhere to our original draft, in authorizing the village Moonsiff to send verbal summonses to parties and witnesses, instead of the written summonses proposed in the Sudder Adawlut's re-draft. Our reasons are fully stated in Mr. Stratton's minute on the proceedings of the Court, in which the inconvenience that would attend the use of written summonses in petty village suits is shewn. The objection urged by the court, "that the "party will generally be ignorant of the cause for which he is summoned," is done away, by the plaintiff or his vakeel being directed to accompany the village servant carrying the summons, in order to explain the subject of it.

11. The

* Vide paragraphs 60 and 61, Court of Directors' letter, 29th April 1814.

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11. The Court express great apprehension, that a verbal summons may not ensure "the communication to the party summoned, of such information as "may enable him to come before the Moonsiff prepared to answer." They suppose, "that it will be carelessly delivered by an ignorant village servant," and doubt "whether a ready obedience can be expected to such a mandate;" and they imagine that the attendance of the defendant, from his ignorance of the cause for which he is summoned, may be worse than useless, by interrupting the progress of his labours for the subsistence of his family. All the form and caution here recommended by the Sudder Adawlut are very proper in the district and zillah courts, where the parties must be generally called from a great distance; but they are totally incompatible with the simplicity and dispatch by which the village Moonsiffs should be governed, and which are essential to the enabling them to act efficiently. It is to be recollected, that no summons can take place, unless both the plaintiff and the defendant are actually at the time present in the village. Suppose that the party summoned does not come fully prepared to answer, there is no harm done; he may be told to get ready and to return at a time fixed. As his house is probably within five or ten minutes walk of that of the Moonsiff, all this process will hardly ever occupy an hour, and very seldom so much; and the interrupting the progress of his labours for the subsistence of his family for so short a time, is not likely to be felt by a person who is supposed, by the existing Regulations, to be able to spare time for several weeks or months attendance at the district or zillah court, during the trial of his suit.

12. But were we even satisfied that written summonses would facilitate the decision of village suits, we would not recommend their adoption previous to the introduction of the judicial code. The inhabitants always obeyed, and in general still obey, without hesitation, the verbal summons of the head of the village, whatever may be the cause of his requiring their attendance. This ready obedience is extremely conducive, and is indeed indispensable, to the good management of the village. The use of written summonses would gradually teach the inhabitants to question every verbal order of the head of the village, and would spread a spirit of insubordination, the mischievous effects of which would be but poorly compensated by any trifling advantages which might be derived from such summonses in petty suits.

13. We conform to our original Regulation, and differ from the redraft of the Sudder Adawlut, in letting a suit be decided by the oath of one party, when the opposite party agrees to abide by such oath. The Sudder Adawlut suppose it to have been our intention to conform to Section 6, Regulation III. 1802, which prescribes "that the court shall examine the truth of the com- "plaint or claim by the oaths of the parties, if they shall mutually consent to "that mode of examination." It was not intended to conform to this section, but to a custom very common among the natives, of determining, with the consent of both parties, the truth of a claim by the oath of one of them. If, for instance, in a claim of debt to be decided on the oath of one party, the defendant swear that he paid it, the plaintiff must relinquish his claim; or if the plaintiff swear that the debt has not been discharged, the defendant is bound to acknowledge it. The Sudder Adawlut, supposing that this construction may possibly be our meaning, observe that the determining of a question by the oath of one party would be introducing a new principle into the code. To introduce a new principle into the code is precisely what we meant to do; because we are persuaded, that the introduction of principles which are followed by the natives in the adjustment of their differences, and which are respected by them, will improve the code.

14. The Sudder Adawlut think it "worthy of consideration, whether the "passing of decisions on the oath of a party, unsupported by witnesses, will "not tend to encourage perjury." It does not appear very plain how perjury is to be promoted more by only one person swearing, than by two or more swearing contrary to each other. The man who agrees to rest the truth of his claim on the oath of another, must have some confidence in his veracity; if he has not, he will follow the usual course of letting the matter be decided by the examination of witnesses. There are sometimes claims to which there are nei-

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ther witnesses nor documents. These are settled, among the natives, by the oath of one party; but the cases which are most frequently decided in this way are those where the plaintiff is satisfied, both of the justice of his claim and of the defendant's veracity. The oath is proposed for the purpose of shortening the litigation. The oath is also frequently resorted to by a party who finds himself wrong, and likely to lose the suit, and who thinks the only creditable way of getting out of it is to abide by the oath of the opposite party. If this opening were not left, he would probably sometimes persevere, and endeavour to gain his course by suborning witnesses.

15. By our original Regulations, the village Moonsiff was restrained from examining more than four witnesses on each side, when it was necessary to take the evidence in writing. In our revised Regulations, we conform to the redrafts of the Sudder Adawlut, in leaving the number of witnesses unlimited. We have adopted this alteration, not from thinking that in petty suits within ten rupees four witnesses on each side are not sufficient for every purpose of evidence, but because having done away appeals from the village Moonsiff's decisions, it is no longer necessary for him to take written evidence, and oral evidence requiring little time, we thought that the restriction on the number of witnesses might be given up without inconvenience.

16. The Sudder Adawlut observe, that the power given to the village Moonsiff of causing an oath to be administered to any witness when he thinks he is not giving his evidence correctly, " would be, in effect, to lay a snare for the " unwary, and to entrap a witness into perjury." We adhere to our original draft, in leaving to the village Moonsiff the discretionary power of causing an oath to be administered: but in order to put the witness on his guard against perjury, we have provided, in the revised Regulation, that " the village Moon- " siff shall, previously to the examination of a witness, inform him that he has " authority to cause an oath to be administered to him, when he may think he " is not giving his evidence correctly."

17. The Sudder Adawlut have remarked, that the power proposed to be vested in village Moonsiffs, of levying the fines which they may impose, is a power which, by all former enactment in the Madras Judicial Code, can be exercised only through the intervention of the zillah Judge. In our report, dated the 15th July 1815,* we have fully stated our reasons for this innovation. We see no cause to change our opinion of its expediency; but we have lessened the time of imprisonment which the Moonsiff was authorized to order, when fines were not paid, from twenty-four to twelve hours.

Village Punchayet Regulation.

18. The revised village punchayet Regulation differs from the original draft in the following points. By the original Regulation, the village Moonsiff had compulsory power, on the application of one party only, to cause any suit not exceeding one hundred rupees to be tried by a punchayet. In order to lessen the motives to corruption, this power is now taken from him, and he is permitted to order a cause to be tried by a punchayet only where both parties agree to abide by its decision, without appeal, and consequently there can now be no appeals under this Regulation.

19. By the original Regulation, the zillah Judge could annul the decision of the punchayet, when corruption or gross partiality was proved to his satisfaction. By the revised draft, in cases of gross partiality, proved to his satisfaction, he must refer his proceedings and opinion to the provincial court of appeal, who, if they concur in his judgment, are authorized to annul the decision of the punchayet: but in cases of corruption only, the court cannot annul the decision, but the corrupt party is liable to prosecution. By the revised draft, also, when a decision is annulled for gross partiality, if the same decision be given in the same case by a second punchayet, it is final.

20. Our reasons for these alterations may be given in a few words. It is essential to the rendering the punchayet adequate to the useful purposes for which it is intended, that its decisions should not be set aside on slight grounds; and as men's opinions often differ widely with regard to what constitutes partiality,

* Paragraph 27.

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tiality, it has appeared to us advisable that, in charges of partiality, the judgment of the zillah Judge should be confirmed by that of the provincial court of appeal, before the decree of a punchayet can be annulled. In punchayets there may be a corruption of one or two members, and the decision of the majority still be right. To make the decision liable to be annulled by the corruption of any one member, would afford too much facility to set it aside, and would tend to encourage unfounded charges of corruption. If corruption has produced a partial decision, the charge of partiality, on being proved, will overturn the decision; if it has not produced a wrong decision, the corruption is liable to punishment on a prosecution. As decisions ought always to be final somewhere, we have thought that the best way of effecting this was to render the decision of a second punchayet, confirming that of a former one, final; for this punchayet, with the advantages of local enquiry joined to those of caste and language, has at least as good means of forming a correct judgment on the merits of the case as a distant provincial court.

21. The Sudder Adawlut, in their redraft, have made a most important change in our original Regulation, by making the greater punchayet, appointed by the Moonsiff, applicable to limited suits only, and the smaller punchayet of five members, chosen by the parties and Moonsiff, applicable only to unlimited suits. We have rejected this change and adhered to our former Regulation, because, as stated in our report of the 15th July 1815,* the members of the smaller punchayet, chosen by the parties, are apt to become parties themselves, and because we are convinced that the leaving all the greater suits to this punchayet would only tend to prevent their adjustment, and to force the parties, however unwilling, to have recourse to the zillah courts.

22. We have adhered to our original draft, in leaving to the punchayet the power of causing an oath to be administered to a witness when they think he is not giving his evidence correctly; but the punchayet are, like the village Moonsiff, directed "to inform every witness, previously to this examination," that they have such authority.

District Moonsiff Regulation.

23. Our present district Moonsiff Regulation differs from our former one in some essential points; namely, in not limiting the number of the witnesses, and in extending the final decision of the Moonsiff to twenty rupees. These modifications arise partly out of those made in the village Moonsiff Regulation. The restriction of the examination of witnesses to four on each side having been done away in that Regulation, has likewise been removed in all the others; and the decision of the village Moonsiff having been made final as far as ten rupees, it became expedient to extend the final jurisdiction of the district Moonsiff from ten to twenty rupees, more especially as this last sum is nearer to the limitation of five pagodas, recommended by the Honourable Court of Directors.† This extension seemed also to be required, for the purpose of expediting the process before the district Moonsiff, by enabling him to dispense with written depositions in all suits under twenty rupees, which is now the more necessary, in consequence of the limitation of the number of witnesses having been given up.

24. Our revised differs likewise from our original draft, in making the district Moonsiff examine witnesses upon oath, in the mode of summoning defendants and witnesses employed in the preparation of salt and the Company's cloth investment, and in the pay of the district Moonsiff.

25. By our first draft, the district Moonsiff examined a witness on oath only, when he saw reason to doubt his veracity; but, on further consideration, we have thought it advisable that he should examine all witnesses on oath, because as appeals lie from his decisions to the zillah court, where the witnesses must be examined on oath, it is better that he should follow the same rule.

26. The form of summoning persons employed in the preparation of salt and cloth for the Company, through public officers under whom they are employed, was inadvertently adopted from the Bengal Code in our first draft; but as no such form has been admitted into the village Moonsiff Regulation, or in the redraft

* Paragraph 8.

† Vide letter of the 29th April 1814, paragraph 70.

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redraft of the same Regulation by the Sudder Adawlut: as the range of the district Moonsiff jurisdiction is so narrow, that those persons could not be called to any great distance from their homes, and as there is, therefore, no sufficient ground for making any distinction between them and the rest of the natives, we have rejected the distinction in the revised Regulation; more particularly as it will not affect the provisions of Regulation I. of 1806, which will still be applicable to the proceedings of the zillah courts.

27. The allowing a salary to the district Moonsiff, which by our first draft was made conditional, is rendered positive in the revised Regulation, because such a provision seemed to be necessary to encourage men of respectability to hold the appointment, and to be more consistent with the instructions of the Court of Directors.*

28. We have adopted the Sudder Adawlut's definition of landed property, which is rather an amplification than an alteration of the one hitherto in use. The Sudder Adawlut, in their remark on our Regulations, have given a description of the different kinds of property in land; and they have observed, that the section does not describe correctly the nature of the property which is intended to be made subject to the cognizance of the village Moonsiff. The description of landed property contained in our draft is taken from the Judicial code. We were not creating any new kind of property; we were only proposing Regulations for those kinds which had long been in existence. We did not, therefore, think it necessary to look for a new definition, because that of the code had been acted upon, from its first introduction down to the present day, without any apparent inconvenience. We were satisfied that it had been found sufficient to answer its object in practice; and while this was the case, we did not think there could be any urgent cause for seeking another. It is hardly possible to believe that, had it occasioned any perplexity, it would not have been represented by the subordinate courts, and long since corrected. It seems rather remarkable that the kind of landed property the most common of all others should not have been noticed, or any provision made for the trial of claims to it, by the code. The explanation of this may, perhaps, be found in the subordinate courts having acted upon the original definition, according to the extended constructions now given to it by the Sudder Adawlut.

District Punchayet Regulation.

29. The remarks which we have already made on the difference between the original and revised drafts of the village punchayet Regulation, are equally applicable to those of the district punchayet. In this Regulation, the compulsive authority of district Moonsiffs to refer suits for trial to punchayets, on the application of one party only, is done away, and the free use of both kinds of punchayet in all cases, is also adhered to, in preference to the restriction adopted by the Sudder Adawlut, of confining the trial of all unlimited suits to the punchayet of five members.

30. The motives by which we were induced to do away the compulsory power of the district Moonsiff, in referring suits to the district punchayet, were the expediency of assimilating the district and village punchayet Regulations, and the necessity of relieving the zillah courts from the appeals to which they would have been liable, had the compulsory jurisdiction been continued.

Sudder Aumeen Regulation.

31. We have restored the Sudder Aumeen Regulation to the original state of our first draft. The Sudder Adawlut, in their redraft, make the number of Sudder Aumeens unlimited. We confine them to the Hindoo law officers of the provincial, and the Mahomedan and Hindoo law officers of the zillah courts, with the view of giving respectability to the office, as well as of saving expense, by employing only officers already in the pay of the Company upon high salaries, and because it is supposed that those officers have both leisure and ability adequate to the discharge of all the business that is likely to come before them.

32. The Sudder Adawlut refer the Sudder Aumeen to upwards of twenty sections of the district Moonsiff Regulation for his guidance, many of which are inapplicable. We adhere to our original plan of referring him to the whole code, because

* Vide letter of the 29th April 1814, paragraph 69.

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because this is conformable to the practice of the Regulations themselves; for in Clause eleventh, Section 6, Regulation XVI. 1802, the native Commissioner is referred to the whole, because the Sudder Aumeen being an officer of the court, ought to follow exactly the same rules and forms as the zillah court, and because he is supposed, from his situation, to be acquainted (if any person is acquainted) with the whole code, and he will of course, whenever any change affecting the process of the zillah courts is introduced, be guided by it.

Boundary Dispute Regulation.

33. Our revised boundary dispute Regulation differs from the original draft, in not limiting the Collector's jurisdiction to disputes between villages respecting their boundaries, but extending it to disputes regarding boundaries in the same village. We have made this extension, because though affrays are most likely to arise about village boundaries, in which the honour and interest of the contending villages are supposed to be at stake, the letter of the Court of Directors,* on a further consideration of its object, does not appear to limit the jurisdiction to village boundaries, and the Regulation to which it refers speaks of boundaries generally; because we conceive that all boundary disputes whatever, can only be settled by local inquiry, which can best be made under the Collector; because, having taken away the jurisdiction of the village punchayet in suits for land, we deem it the more necessary to employ them in the settlement of boundary disputes, which are merely matters of fact, and of which their habits and residence on the spot render them the most competent judges; and because we are persuaded, that much facility will be given to the adjustment of these suits, and much relief be afforded to the zillah courts, by the proposed measure.

34. In the revised we differ from the original Regulations, in having adopted a part of the forms of process contained in the redraft of the Sudder Adawlut. We differ, also, from the original, in allowing the Collector to annul the decision of the punchayet on proof of partiality, but not of corruption, for the same reasons for which the power of the provincial court, in this respect, has been limited, as already explained, and likewise in making the decision of a second punchayet, confirming that of a former one, final.

35. By this Regulation, an authority not allowed to the zillah Judge is given to the Collector, of annulling decisions on proof of partiality, because the Collector, by moving about the country and visiting the spot where the disputed boundary is, has ample means of obtaining accurate information.

Police Regulation.

36. In the revised police transfer Regulation, we have adhered, in every material point, to our first draft, and have restored the sections rejected by the Sudder Adawlut in their redraft. The section of this Regulation which authorizes the Collector, "when riotous assemblages are formed in consequence "of disputes respecting the right of ploughing any particular fields, to determine who shall plough them for the present, in order that cultivation may not "be impeded, by the land being kept uncultivated while the trial which the parties "may seek is depending," is regarded as one which ought to be rejected from the Regulations of Government. They seem to think that the Collector is authorized, by this section, to transfer to any claimant lands which might have been cultivated for ages by one family in succession. They observe, that this section cannot guard any right, cannot serve the purposes of justice, but may give a temporary success to injustice, and that the Honourable the Court of Directors could not have had such a result in contemplation. The Collector, in the very first words of the section, "is authorized to prevent the forcible "occupation or seizure of lands or crops;" and it is not, therefore, easy to see how he could, without a breach of the Regulation, dispossess the ancient family of ages, or even the occupant of a single season. The provision is made for a very common case; namely, the disputes about the occupancy of Sirkar lands lying waste or uncultivated and unoccupied, and open to the first comer. When two or more persons, having no previous right to such unoccupied land, dispute who shall plough it, some provision seems to be necessary for the settlement of the difference: we have, therefore, enlarged and restored the section, because

* Vide letter of the 29th April 1814, paragraph 109.

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because we conceive that it is required, in order to follow up the instructions of the Court of Directors regarding the forcible seizure of lands and crops.

37. We adhere to our original Regulation, and differ from the redraft of the Sudder Adawlut, in dispensing with the use of stampt paper in complaints for petty offences to the Superintendent and Police officers, because the police being founded on the ancient usages of the country, there should be no unnecessary expense or form to impede the communication of the Superintendent with the inhabitants.

38. We differ, also, from our original Regulation, in allowing the warrant of the zillah Magistrate to go direct to all Police officers within the limits of the village in which the zillah court is stationed; but, in all other cases, we adhere to our original Regulation, in allowing no order to be issued to any Police officer, except by or through the Superintendent, both with the view of preventing the collision of authority alluded to by the Court of Directors, and of giving more efficiency to the police, by shewing the servants that they are under one head only.

39. We differ from the Sudder Adawlut, and adhere to our first draft, in authorizing the Superintendent of Police to release persons brought before him charged with offences, when he sees no ground for detaining them, without recording any reason; because we think that to record his reasons for his conduct in all such cases, can only serve to waste his time unprofitably, and to accumulate useless records.

40. The Sudder Adawlut observe, that our not requiring an oath from the Collector or his Assistant, shews an inattention to public obligations. We still, however, adhere to our first draft, in not requiring these oaths, for the reasons stated by Mr. Stratton in his minute: because, also, we think it totally unnecessary to make the Collector take five oaths; and because, if his oath as Collector is not deemed sufficient, we think that it might easily be altered, so as to make it answer both for the office of Collector and of Superintendent of Police.

41. Having now stated all the material points in which our revised differ either from our original Regulations, or from the redrafts of the Sudder Adawlut, and given such explanations as appeared necessary, we proceed to offer a few observations, in answer chiefly to the objections to the village Moonsiff Regulation, brought forward by the Sudder Adawlut at the end of their report.

General Observations.

42. The first objection stated by the Sudder Adawlut is, that "the Com-" "mission, in their first Regulation, provide that the renter or Collector of the" "rents or revenue, and not the Potail, shall be the Moonsiff, and this provi-" "sion, independently of its being directly at variance with the plan contem-" "plated by the Honourable Court, &c." We have no where said, that the renter or Collector, and not the Potail, shall be the Moonsiff, though the Suddar Adawlut have frequently given this as our language. We do not say that the renter, and not the Potail, shall be the Moonsiff, but that the Potail, wherever he exists as Potail, shall be the Moonsiff, and that the renter or Collector shall be the Moonsiff only when the Potail has been set aside, and when the renter or Collector himself does, in reality, act as Potail. A Potail who has not the village servants under his control, and who does not collect the rents and direct the affairs of the village, is no longer Potail. The person who succeeds to these functions is the Potail. To constitute this person Moonsiff involves no deviation from the plan contemplated by the Court of Directors. The Court know perfectly well, that the village institutions varied more or less in every province; that in some they were extremely imperfect, and that in many cases they had been broken up by our revenue systems, and the Potails set aside to make way for renters. The Honourable Court propose,* that the heads of villages, by whatever name they may be designated, shall be invested with judicial powers; but where the former heads of villages have been removed, they do not propose that these powers shall be withheld from their successors, merely

* Vide paragraph 34.

merely because those successors may occasionally be men of different caste from, or of less respectability than their predecessors.

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43. When a Potail has been removed, to make room either for a renter or a proprietor of the village, he sinks to the rank of the common Ryots, whether his enaum be continued to him, or be incorporated (as it has been in some cases) with the permanent settlement. To constitute him Moonsiff would throw the affairs of the village into complete disorder, and hinder both the distribution of justice and the realization of the revenue. He would exert all the influence of his new office to impede cultivation, and to encourage the Ryots to withhold their rents, in the hope of injuring the rival by whom he had been superseded, or of compelling him to give up the village. The village servant, when wanted by one party for judicial or police affairs, would be called away by the other for those of revenue, and a collision of authority, most detrimental to the country, would be established: we are therefore of opinion, that the person who collects the rents, directs the village servants, manages the public business, and in effect exercises all the functions of the head of the village, must be the village Moonsiff, whether he be the ancient head or a new renter, proprietor, or agent.

44. But the adoption of this rule will not introduce so many strangers to the office of village Moonsiff as may at first sight be imagined. The decennial leases were ordered by Government to be made with the head inhabitants of the villages; and this has, with a few exceptions, been done. In all the decennial lease districts, therefore, as well as those out of lease, forming together by far the greater portion of the Madras territories, the ancient heads of villages remain and become the Moonsiffs. In those districts where the permanent settlement has been formed, a considerable number of the villages are the property of their ancient heads; and even where the villages have become the property of strangers, the old heads are still employed, in many of them, as managers by the new owners. In the districts still held under the permanent settlement by the greater Zemindars, the villages will, in general, continue in the hands of their ancient Potails, Reddies, or head Ryots, excepting where a portion of the zemindarry has been leased, and then some of the villages will fall into the hands of new men. In all the districts under the permanent settlement new heads of villages have been established, where the proprietor being a stranger resides in the village and directs its affairs, where the renter being a stranger resides in the village and does the same, and where a stranger is employed by the proprietor or renter as manager. But the removals of the ancient heads of villages produced by all these causes united, does not probably amount to one in twenty; and when it is considered that their places have often been supplied by respectable Ryots, or inhabitants of the same or of some of the neighbouring villages, who are equally competent to the situation, there seems to be no just ground to apprehend any serious inconvenience from constituting the actual manager of the village the village Moonsiff.

45. The Sudder Adawlut remark, that the renter who derives his profits from the labour of all the cultivating classes of the village cannot be uninterested. But, in answer to this, it may be said, that the office of renter does not necessarily prevent the Moonsiff from doing justice between tenants; that there can be no great motive to corruption in suits of ten rupees, and of which not more than two or three may occur in the year; that if the Ryots doubt his impartiality, they will ask a punchayet, or apply to the district Moonsiff or zillah court; and that, in many villages, the lease is not held by one person, but by all the Ryots, or at least by all the better class of them jointly, and the Moonsiff can therefore have no inducement to favour one at the expense of the other. "Still "less," say the Sudder Adawlut, "can impartiality be expected from the hire-"ling employed to collect the duties of the Zemindar: he will too frequently, "it is to be feared, make his profits by relaxations of his master's rights, to be "purchased by the cultivators, and the best customer will doubtless be most in "favour with him." As far as regards the injury to the Zemindar, we imagine that he may very safely be left to take care of his own rights, and that he would do so by removing his hireling agent: with respect to the injustice towards the Ryots, it has already been stated that they can have recourse to other tribunals, and that the Moonsiff is liable on prosecution to fine and damages.

46. Another

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46. Another difficulty, in the opinion of the Sudder Adawlut, is that the situation of renter or Collector of the rents is not permanent in one person: and in order to shew from how many incidents it is liable to change, they observe, "that the very circumstance of a man's giving more attention to settling "justly the differences of his neighbours than to his own concerns, might be "the cause of his being ousted from the farm, by virtue of which he exercised "the judicial authority." This case of a Moonsiff losing his office from an excessive love of justice, is certainly not provided for, either in our original, or revised drafts; but his successor would probably take warning from his fate, and thus remedy the evil complained of.

47. Another part of the Sudder Adawlut's objection is, that the farmer may fail and be removed, and frequent changes of Moonsiffs take place. These changes, we believe, will be few, in comparison with the numbers that will not be changed; and even where they occur, will not cause any material inconvenience. The office requires no great talents; its jurisdiction is limited to ten rupees. The successor will probably be some principal Ryot of the same or a neighbouring village, quite equal to the task of deciding two or three petty suits in a year. In villages where more suits arise, there will usually be found shopkeepers, weavers, and merchants, capable of deciding by punchayet any cause to which the renter may not himself be competent.

48. The Sudder Adawlut go on to remark, that the situation of Moonsiff is still more liable to change when held by the agent of the renter, than when held by the renter himself, because "caprice in the renter may furnish the village "with a new Judge every month." No private person, we believe, would venture to entrust the charge of his affairs to a new agent every month; and we believe that the common sense of the renter, and his regard for his own interest, will deter him from committing the management of his farm to a new agent every month. But even supposing that this extreme case should actually occur, it could do no great harm. The monthly Moonsiff would have time enough to settle a petty suit within ten rupees, which would seldom require more than a few days, or even a few hours, or the parties would demand a punchayet, or apply to a neighbouring village Moonsiff.

49. The next point on which the Sudder Adawlut advert is, the "exemption "from all superintendence and control which the village Judge is to enjoy, and "his retaining his authority so long as he is renter or Collector of the rents, "although he may, in a hundred instances, be proved most grossly venal." The village Moonsiffs are amenable to the zillah courts for all acts of corruption and oppression. Were they liable to punishment for negligence or incapacity, they could not possibly act. The native agents about the zillah and district courts, who may be interested in opposing them, would instigate frivolous complaints against them. The Moonsiffs are not exempted from wholesome control, but from such control or interference as would deter them from doing their duty, and render their office inefficient. The zillah Judge has certainly neither means nor time to ascertain the incapacity, or to inquire into the negligence of from one thousand to four thousand village Moonsiffs. The capacity which is equal to the management of a village will, most likely, be found adequate to the settlement of two or three, or even a dozen ten-rupee suits in the year; if it be not, the parties can have a punchayet or apply to another Moonsiff. The suits which, in the course of a year, come before the district Moonsiffs, are about thirty thousand. If we suppose that double this number may annually be brought before the village Moonsiffs, it would scarcely, on an average, give two to each Moonsiff, and he can hardly be grossly venal in a hundred instances, when he is not likely to have the trial of a hundred suits during his whole life.

50. It has already been shewn, how little temptation a ten-rupee suit can present to corruption; and there seems to be no ground to suppose, that a Moonsiff who had once been guilty of it could ever repeat the offence. The fine, and the expense and loss of time, would be sufficient to deter him, and his loss of character would prevent the inhabitants from bringing their suits before him in future. He cannot be removed where he is a renter or proprietor of a village, nor ought he to be removed even where he is merely a Potail, collecting the

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the rents of Government. To allow such removal, would promote the feuds which are so violent among some families for the office of Potail, and would encourage perjury for its attainment. The time of the Judge would often be uselessly wasted in hearing unfounded charges: he would not easily be able to guard against the frauds that would be adopted, and might sometimes remove a man not guilty, and more injustice and corruption would thus be produced than that which it was meant to obviate. It will be better, we think, to let a trial be made, for a few years, of the village Moonsiff under the Regulation now proposed; and if the evil apprehended should then be found to be of such magnitude as to require further provision, it can be made.

51. The Sudder Adawlut conclude their remarks on a quotation by the Court of Directors relative to the village institutions, by observing "that to make the "Potails discharge judicial functions will be regarded as an imposition of new "duties, or as the renewal of obligations which none of the parties concerned "wished to have renewed." It is not necessary here to examine, whether these obligations are new or old: we have stated our opinion on the subject in a former report.* With respect to the parties concerned not wishing to have them renewed, we may observe that the Barramahl, when the permanent settlement took place, was disposed of in mootahs or estates to the highest bidders, and the Potails were set aside; yet they did not complain of this measure, though many of them shewed their attachment to their former situations, by ruining themselves in order to purchase them. It does not, therefore, follow, as the Sudder Adawlut have supposed, that the natives have no desire for a privilege because they have made no complaint of its deprivation.

52. Potails and village servants, though they sometimes complain against the officers of Government, never complain against what they consider as the acts of Government itself. They have not the courage to state objections individually to what has been passed into a law: they do not come forward in a body to petition against a Regulation, as men do in England against an Act of Parment: they are ignorant of this mode of proceeding, and even if they knew it, they would not venture to avail themselves of it, lest it should be regarded as an act of opposition to Government. Had the village institutions been left untouched by the British Government, no new regulation would have been necessary; but as this has not been the case, and as the natives believe that, in consequence of the introduction of the Judicial code, no suit, however trifling, can now be settled except under the authority of the zillah courts, it has become necessary to make Regulations calculated to restore to the natives their ancient privilege of having their disputes settled by the head of the village or a punchayet, when they chose this mode in preference to seeking redress from a distant tribunal; and in furtherance of this object, we think it expedient that the Potail, whether he be willing or not, should be required to discharge all the judicial, revenue, and police duties belonging to his office, as head of this village.

53. It is thought by the Sudder Adawlut, that by constituting the Potail or renter a referee and arbitrator merely, the evil consequences of exemption from the punishment of dismissal would not be so formidable, "because to a village "referee or arbitrator, whose profligacy or incapacity had been ascertained, "the zillah Judge would not refer causes for decision;" and they observe, "that the authority of a referee and arbitrator must lie dormant, unless it be "called into action by the zillah Judge." All that is here said about arbitration is already provided for under the existing Regulations,† but it appears to have been very rarely acted upon. The reports of the Judges shew very little arbitration. The general complaint of the Judges is, that the parties have no confidence in arbitrators: we may therefore conclude, that if the village Moonsiffs are to be roused only by the zillah Judges, they will hardly ever be disturbed in their dormant state. How is the Judge to ascertain the profligacy or incapacity of the Moonsiffs? He has already more to do than he can attend to without a correspondence with so numerous a body.

54. Our objections to the village Moonsiff acting as referee have been detailed in our report of the 15th July 1815.‡ To make it necessary, in petty suits,

* Vide letter of the Commission, 28th March 1815.

† Regulation XXI, 1802.

‡ Vide paragraph 5.

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suits, to repair, in the first instance, to the zillah Judge, would defeat the object of the Regulation of not carrying away the people from their villages. Indeed, it would prevent such suits from being settled at all; because there is hardly a case within ten rupees (the limit of the Potails' jurisdiction) in which the plaintiff would think it worth while to leave his home, as even the certainty of gaining the suit would not compensate for the trouble and loss of time."

55. The section by which the Collector is authorized to determine who is to be considered as the head of the village, when there are two or more joint renters or collectors of rent, each claiming the office, is deemed objectionable by the Sudder Adawlut; and they recommend that the nomination shall be made by the zillah Judge, because as he appoints the district Moonsiff, the same provision should, they conceive, be made applicable to the village Moonsiff. There does not seem to be the smallest analogy between the two cases. The district Moonsiff is an officer purely judicial, acting entirely under the orders of the zillah Judge: the village Moonsiff is a revenue officer, who exercises judicial authority only in virtue of his revenue office. His revenue business is constant, his judicial only casual; and as the Collector has always had the appointment of village revenue officers, this authority ought undoubtedly to remain with him. As Collector and Superintendent of the Police, he is the only proper person to determine in doubtful cases who shall be the head revenue and police officer of the village.

56. A doubt is expressed by the Sudder Adawlut, whether it be intended by the village Moonsiff Regulation "to leave it entirely to the option of the native inhabitants to have recourse to these lower judicatories or to the zillah courts." It will be seen by the Report of the Commission, referred to in Mr. Stratton's minute,* that it was intended this option should be left to the inhabitants, and it is now made more distinct by the wording of the clause.

57. So many evils appear to the Sudder Adawlut to be likely to result from the heads of villages becoming Moonsiffs *ex officiô*, that they propose their being appointed by selection by the zillah Judges; that it shall be made the special duty of the Judges "to select those persons for the judicial office whom the general opinion of the inhabitants, manifested by voluntary references, should point out as the best qualified to decide on the disputes between them;" that a Moonsiff shall not be appointed to every village, but to a circle of from ten to twenty miles, according to the population. What is here recommended is already provided for by the code; for Clause fourth, Section 3, Regulation XVI. 1802, directs the appointment of native Commissioners to circles of ten coss: but this appears to have been only very partially done, as may be seen by a list of the number of Commissioners, including the law officers of the zillah courts as Sudder Aumeens *ex officiô* by the last returns, vide Appendix. We are therefore to infer, that the Sudder Adawlut have found some difficulty attending this plan authorized by the Regulations, and the same in principle as that recommended by themselves, which has hitherto prevented them from carrying it into execution; and it can hardly, therefore, be necessary to attempt the introduction of a similar one upon a more extensive scale, more particularly as it would not be the village Moonsiff Regulation proposed by the Court of Directors.

58. In their concluding remarks, the Sudder Adawlut observe that "they have not deemed themselves at liberty to deviate, in any essential point, from the principles on which the proposed Regulations appear to have been framed." They have made one essential deviation in the Punchayet Regution, where they confine the trial of unlimited suits to the punchayet of five members. This, we have already observed, would tend to retard the adjustment of such suits, and to force them into the zillah courts: it would also increase the chances of corruption, which would be more easy than in a more numerous punchayet.

59. The Sudder Adawlut have noticed several trifling innovations on the Judicial code, but have made no objection to one of the most important, that by which the village Moonsiff is authorized to carry his own decrees into execution,

* Vide Commissioners' Report, 15th July 1815, paragraph 32.

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tion, and to attach property for that purpose, which will have an extensive and beneficial influence in facilitating the recovery of just debts.

60. We think that most of the difficulties seen by the Sudder Adawlut originate in their viewing the Potail, not as what he is, a head Ryot engaged in agriculture and deciding one or two petty suits in the year, but as a regular Judge, solely occupied in hearing causes from one end of the year to the other. They speak of his sitting in open court, of the respectability of the judicial character, of preserving the purity of these inferior judicatories, of his conscience not being bound by an oath, of his being subject to no controul, and of the ease with which he may convert his power into an engine of oppression We are satisfied that the evil or the good that any one village Moonsiff can do will be trifling; that oppression will seldom be within the power of any one of them, and is sufficiently open to punishment; that good will be within the reach of them all, and that however little may be done by them individually, the aggregate will be great. The proposed Regulations cannot impede, but will assist the operation of the Judicial system: the option is left to the natives of having recourse to them, or not, as they please. We therefore beg leave respectfully to recommend, that they be passed by the Right Honourable the Governor in Council.

61. It was our intention to have submitted with the proposed Regulations a report on the heads of information called for by the resolution of Government of the 1st March 1815. We addressed a circular letter on that subject to the Collectors, dated the 8th June, with forms explanatory of the information required; but as some of the Collectors' returns have only been lately received, and as others have only been received in part, we shall be obliged to defer our report for some time longer.

We have the honour to be, Sir,

Your obedient humble servants,

(Signed) THOMAS MUNRO,
First Commissioner.
GEORGE STRATTON,
Second Commissioner.

Fort St George, 20th April, 1816.

APPENDIX.

Number of Sudder Aumeens, Moonsiffs, &c. in each Zilla

Names of Zillahs.	Mooftees and Pundits acting as Sudder Aumeens, *ex-officiô.*	Sudder Aumeens.	Moonsiffs, &c.	TOTAL.	
Bellary	2	2	17	21	
Canara	2	1	33	36	
Chingleput	2	...	33	35	
Chittoor	2	...	21	23	
Cochin	...	...	...	...	
Combaconum	2	...	13	15	
Cuddapah	2	...	38	40	
Darapooram	2	...	16	18	
Ganjam	2	...	...	2	List not received.
Guntoor	2	...	6	8	
Madura	2	1	10	13	
Malabar (North)	2	...	10	12	
Malabar (South)	2	...	...	2	List returned for correction.
Masulipatam	2	...	16	18	
Nellore	2	...	...	2	
Rajahmundry	2	...	...	2	
Salem	2	...	8	10	
Seringapatam	2	...	...	2	
Tinnevelly	2	...	4	6	
Trichinopoly	2	...	4	6	
Verdachellum	2	...	15	17	
Vizagapatam	2	...	6	8	
Total	42	4	250	296	

(Signed) W. OLIVER,
Register.

MINUTE *of the* PRESIDENT,
Dated the 25th April 1816.

President's Minute, 25 April 1816.

THE President submits to the Board a correct copy of the Regulations framed by the Commissioners for the revision of the judicial system, and proposes that the said Regulations be passed and promulgated.

(Signed) H. ELLIOT.

25th April 1816.

MINUTE *of* ROBERT FULLERTON, ESQ.
Dated 27th April 1816.

Mr. Fullerton's Minute, 27 April 1816.

I AM sorry I cannot assent to the immediate publication of the Regulations now submitted by the Commission, and the following are the grounds of my objection. By the resolutions of Government, under date 1st of March 1815, the Commission were required to ascertain and report on certain points therein detailed,* previously to drafting the Regulations for the establishing of the village courts and for the restoration of the village police. Considering, however, that the Regulations were to undergo the revision of the Sudder Adawlut, which must necessarily take up some time, during which it was supposed that material progress would have been made in ascertaining the points of information required, the Commission were, on the 13th May 1815, authorized and directed to prepare and submit the drafts through the regular channel; but in that letter it is expressly stated, " that the Right Honourable the Governor in " Council continued to be of opinion, that it would be advisable a report upon " those points should precede the promulgation of the Regulations "

In the letter addressed to the Commission, under date 4th August 1815, which accompanied the copy of the letter from the Secretary of the Right Honourable the Governor-General, it was observed, that the " suggestions which " had fallen from the Governor-General rendered it more particularly neces- " sary that, in any event, the information called for in the first and eighth ar- " ticles of the resolutions of Government, bearing date 1st of March last, " should be furnished before the new Regulations are promulgated." I am not aware of any circumstances which have occurred to affect the propriety of the foregoing resolutions: on the contrary, I continue to be of opinion, that before a legislative enactment be promulgated, vesting certain powers and requiring certain duties from a certain description of persons, Government should know by something stronger than tradition, by local inquiry and research, that such description of persons does exist, and that the persons described are capable and fit to be trusted with the performance of the duty to be required. It is further necessary, that we should know whether there exist, in the opinion of the public officers of Government, objections of a local nature to the arrangement; for (to use the language of the letter from Bengal) it must be recollected, that although the Commission may introduce the system, it must be ultimately conducted by the officers of the judicial and revenue departments; and if objections do occur, even though they should prove unfounded, still it is highly necessary that they should be met and set at rest before the law be declared.

The letter from the Secretary to the Right Honourable the Governor-General furnishes additional ground for deferring the immediate promulgation of the Regulations; for although his Lordship assents conditionally to their publication without delay, still the condition under which the assent is given does not appear to me to exist. The case does not involve emergency in which delay would be embarrassing. The proposed Regulations involve material changes in the principles and system of administration hitherto pursued, throughout our

* Vide I. and VIII.

Mr. Fullerton's Minute, 27 April 1816.

possession in this country, in the adoption of which it is necessary to proceed with caution and care: neither is the period prescribed for the dissolution of the Commission at hand. In fixing the period at three years, the Honourable Court seem to have had in view the necessity of full and ample deliberation. It is clear they wish the thing to be done well and effectually rather than soon.

The difference of opinion subsisting between the Sudder Adawlut and the Commission renders the reference to the Supreme Government still more advisable, in order that the benefit of their sentiments may be obtained on the points at issue. The period that elapses in the reference cannot be said to be lost, as it will afford time to the Commission to ascertain and report the points of information required, as already determined, to precede the promulgation of the Regulations.

The amended drafts having only reached me on the 26th instant, I am not yet prepared to give any opinion on the alterations they contain. On the general question, as well as on the first draft and proceedings of the Sudder Adawlut, I have already stated my sentiments.

(Signed) R. FULLERTON.

Madras, 27th April 1816.

MINUTE *of* ROBERT ALEXANDER, Esq.

Dated 29th April 1816.

Mr. Alexander's Minute, 29 April 1816.

I AM disposed to concur with Mr. Fullerton in opinion, that the revised Regulations, as submitted by the Commissioners, require yet farther consideration before they are promulgated, and that, for the reasons he has stated, it is particularly desirable and expedient that they should be submitted to the Supreme Government.

I only received the Regulations with the minute of our Right Honourable President yesterday evening, and have not, of course, had time even cursorily to peruse them; nor have I had the advantage of making myself acquainted with the sentiments of Mr. Fullerton, recorded in the papers to which he alludes in his minute of the 27th. Under these circumstances, I am not prepared to give my consent to the immediate promulgation of the Regulations.

(Signed) ROBERT ALEXANDER.

29th April 1816.

MINUTE *of the* PRESIDENT,

Dated 14th May 1816.

President's Minute, 14 May 1816.

IN a minute of the 25th of April, I submitted to the Board a correct copy of the Regulations framed by the Commissioners for the revision of the judicial system, and I proposed that the said Regulations should be passed and promulgated.

Mr. Fullerton, in a minute of the 27th of April, and Mr. Alexander in one of the 29th, having suggested the expediency of a further delay, I readily consented to this, for the purpose of affording the members of the Board more ample time for the consideration of the Regulations. Mr. Fullerton has since been pleased to communicate to me, and to the other members of Council, the accompanying draft of a projected minute, proposing certain amendments and alterations to the Regulations.

With his permission I have furnished a copy of this draft to the Commissioners themselves; and in consequence of my further discussions with them upon the points alluded to, I have the satisfaction to observe that the Commissioners do not consider that certain of the amendments and alterations brought

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brought forward by Mr. Fullerton will militate against the general spirit and tenor of the Regulations, but, on the contrary, that in some instances they may be adopted with advantage, and that they will contribute to the perfection of the judicial system the regulations are calculated to establish.

I therefore propose, first, that the Regulations be passed with the amendments, as stated in the Memorandum A.; secondly, that the Regulations be returned to the Commisssioners, with directions to insert the amendments contained in the Memorandum A., and to forward them in that shape to the Superintendent of the Government press; thirdly, that orders be sent to the Superintendent of the Government press to print the Regulations in communication with the Commissioners, and to send them the proof sheets for revision and the correction of errors; fourthly, that in Section 2d of the Police, the blank left for the insertion of the date of the transfer of the Police to the Collectors be filled up with the words "11th of July 1816."

(Signed) H. ELLIOT.

Fort St. George, 14 May 1816.

MINUTE *of* ROBERT FULLERTON, Esq.

Dated the 8*th May* 1816.

Mr. Fullerton's Minute, 8 May 1816.

1. I HAVE attentively considered the amended drafts of the Regulations submitted by the Commission and the report which accompanied them. They seem to have availed themselves with much advantage of the suggestions and remarks of the Sudder Adawlut, and also of the opportunity afforded by the reference, of reconsidering other points not remarked on by that court. The exclusion of real property from the jurisdiction of the village Moonsiffs removes many difficulties; and the declared liability to prosecution for corruption, or for acts done by them unauthorised by the Regulation, interposes that salutary check required against abuse, and supplies the material defect in the first draft. The admission of trial by punchayet only in cases when both parties consent, instead of the right originally given to one party to have the cause adjudicated by that process, is a considerable improvement. On the whole, I think the delay which has taken place more than compensated for by the amendments that have resulted, for had the Regulations been at once promulgated, they must have gone forth in a comparatively imperfect state. There still, however, appear a few omissions and objectionable provisions, which will be found detailed in the annexed Statement D. With the alterations there proposed, the Regulations are, in my judgment, as perfect as they can be made, and in strict conformity with the orders and intentions of the Honourable Court.

2. Of the first part of the report it is unnecessary to take much notice, being confined to the explanation given in support of the alterations of the draft. Some observations are however made, which not being supported by experience, might as well have been spared; such, for example, as that contained in paragraph 8. "That the petty causes which will come before the "village Moonsiffs have originated since the establishment of the zillah courts, "and have been accumulating ever since, from the difficulty and expense of "trial being greater than the matter was worth." All this is mere assertion, the authenticity of which yet remains to be determined by the test of experience. That the system of punchayet, pursued before the introduction of the judicial system, was utterly inadequate to the demands of the country, is a fact which stands incontrovertible, from the deluge of causes that overwhelmed the courts at their first opening, embarrassed their proceedings, and, in fact, produced many of those evils that have since been erroneously ascribed to the judicial system. It is unnecessary, however, to pursue this course of reasoning further, since a few years' experience will set the matter at rest for ever.

3. It only now remains to notice the concluding part of the report of the Commission, in support of the employment of renter or casual manager of villages as Moonsiffs. After the most attentive consideration of all the arguments

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ments there adduced, my sentiments remain the same as formerly expressed. It is impossible, indeed, to read with attention the paragraphs 34 to 54 of the Honourable Court's letter, without perceiving that the whole system is founded on the maintenance of the ancient municipal village system, where such still exists, or its revival where it has lapsed. It is the preservation or restoration of the office of Potail in its pristine form and with its primitive functions, and not the transfer of those functions to the casual renter or temporary collectors of the rents, that is the object of the Honourable Court.

4. The principle adopted by the Commission is not only contrary to, but completely subversive of the plan in contemplation of the Court of Directors; for if the whole functions of the office are to go with the person who collects the rents, then certainly the Zemindar, who has power to send even a Pariah to perform that duty, holds in his hands the complete control and supremacy over the judicial and police functions of the village Moonsiffs, and can, through the exercise of distinct proprietary right, displace the head inhabitant when he pleases, and subvert the whole system. In the Northern Circars, for example, there does still exist the office of Pedda Caupoo Naidoo, or head inhabitant, in every village; to that person the Moonsiff pottah must be granted, whether he is the renter, manager, Collector of the village, or not. To allow the Zemindar to displace him, by sending a manager to the village to collect the rents, is to destroy, not confirm, the ancient institutions of the country. If the pottah or sunnud of authority be given to him by the Collector, the village servants will obey him; and it rests with the Zemindar, if he pleases, and as he will find it his interest to do, to employ him also in the revenue duties of the village. To allow the selection for the office to rest on revenue duties alone, is to sacrifice principle to practical convenience, to prefer the secondary to the primary consideration, and to transfer to the Zemindar a power of selection, where the office is already filled by the person the Honourable Court describe. On this part of the subject I beg to refer to the 82d, 83d, and 84th paragraphs of the Honourable Court's letter. The Court, in these paragraphs, allude to the over-weening authority and arbitrary sway of Zemindars; they mention the feeble operations of Darogahs and Peons towards the support of the magisterial authority; and they expressly refer to the re-establishment of the village police system, as the most efficient means of maintaining that authority. But in what degree could the authority of the magistrate be promoted, if the Zemindar could, whenever he pleased, displace the principal instrument by sending a hireling servant to collect the rents of the village.

5. The confirmation or re-establishment by a public enactment of the municipal office of Potail or head inhabitant, may certainly, by the interposition of local respectability, prove a powerful instrument in checking the tendency to extortion and injustice, supposed to be practised by Zemindars and renters over inferior tenantry, and which form an invariable topic in every revenue dispatch. But that salutary effect, instead of being promoted, must be effectually retarded, if Zemindars are to have the selection. What the Commission observe in the 44th paragraph of their report may be true, namely, "that the adoption of the rule will not introduce many changes to the office "of Moonsiff; that the ancient heads of villages are *now* employed by new "proprietors." But we are not to consider only the case as it now stands, but what it may become, under the operation of the Regulations which we are about to pass; for it must be recollected, those Regulations do not embrace the single act of transfer, but will have prospective and permanent operation; and if they provide that not the ancient head men, but the acting revenue manager or collector, is to be the Moonsiff, with extensive judicial and police powers revived in his person, it is easy to foresee that inducement for changes may often arise. Those changes the Regulation as it now stands must sanction and support, is likely, therefore, to produce all the effects contemplated by the Sudder Adawlut. At the close of paragraph 43, the Commission remark: "We are therefore of opinion, that the person who collects the rents, "directs the village servants, manages the public business, and in effect exer-"cises all the functions of the head of the village, must be the village Moonsiff, "whether he be the ancient head or a new renter, proprietor, or agent." This opinion completely sets aside all the considerations urged by the Honourable

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able Court as the ground-work of the system. It vests all the powers of the office of Moonsiff in the temporary manager; and if this opinion corresponds with that of the Honourable Court, there was little use for the quotations that introduced the system to our notice, for they are all completely superseded. The reasoning of the Commission amounts to this: He that manages the village for a time is Potail for a time; the Potail must be the Moonsiff; he that can give and take away the revenue management can make or unmake the Potail, and consequently make or unmake the Moonsiff.

6. In all districts where I have had the means of local observation, I have reason to believe the office of head man to exist as described by the Honourable Court. There is no necessity for substituting the renter or manager in his place; and in many parts of the country, I believe, the same description will be found, and probably the hereditary head inhabitant is now also the managing revenue officer. I admit, generally, the correctness of the principle on which the system is founded; but I deny that the Section 3, as the Commission have written it, is calculated to maintain that principle; for admitting that hereditary heads of villages are now, in most cases, renters or revenue managers, there is nothing in the Regulation that secures their continuance in that capacity. It makes municipal government, that is village police and justice, follow revenue as a secondary consideration, instead of preceding it; for if, as I think the Court of Directors intended, the police and judicial functions were vested *ex officiò* in the hereditary head inhabitant, it would be for the obvious interest of the Zemindar to let revenue management go along with it, or if he did not he must suffer the inconvenience; but if, on the other hand, the function of police and justice rest on revenue management, they will probably be led far, very far from those whom the Honourable Court describe as the native gentry, "the permanent authorities of the country." For these reasons it appears to me, that the term *renter* or *manager* of a village should not be inserted, as conferring the office of Moonsiffs, but that the investiture should rest entirely on hereditary claims to the office described by the Honourable Court.

7. Against the tendency to abuse urged by the Sudder Adawlut to exist in the Potail or renter, in capacity of Moonsiff, the Commission invariably answer, that if parties are averse to his jurisdiction they can go to another tribunal. This appears plausible, certainly; but the plural number is used instead of the singular. Parties are plaintiff and defendant, between whom there does not always subsist a similarity of sentiments; against one of them, defendant, the jurisdiction is compulsive, he therefore has not the option of going to another tribunal. The argument used by the Commission would be conclusive, certainly, if the powers of the head inhabitant were those of arbitrator only, like the punchayet, authorized to act only when both parties assented to his decision. Again, it is argued that the head inhabitant or manager can have little inducement to partiality, in cases of ten rupees between Ryot and Ryot; but it seems to be forgotten, that other classes exist in society. Weavers, for example, who buying their grain from the Ryot, will generally be defendant under a ten rupees suit; and paying no revenue to the village manager, he can hardly be considered as strictly impartial, for in that case he has a decided interest, inasmuch as the realization of the rent may probably depend on recovering money from the weavers, against whom the jurisdiction is not optional but compulsive.

8. In the forty-second paragraph, the Commission remark as follows: "The "Court know perfectly well, that the village institution varied more or less in "every province; that in some they were extremely imperfect, and that in "many cases they had been broken up by our revenue systems, and the Potails "set aside to make way for renters." All this is perfectly true, and it was exactly on this ground that the resolutions of Government of the 1st March 1815 were framed. It was thought proper that local investigation and report should precede the promulgation of the Regulation. Before a Regulation was framed, equally binding in every district, it was considered desirable to know how far those alterations had been carried, and it was considered not absolutely impossible that ancient institutions might have been so far subverted in some districts, as to render the immediate introduction of the system proposed unadvisable, or even impracticable.

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9. In the propriety of those resolutions I still concur. I consider them strictly warranted by those principles of prudence and caution that ought invariably to accompany the introduction of new, or revival of ancient and long dormant institutions; nor can I believe it to have been the intention of the Honourable Court that due caution was to be dispensed with, by too sudden and precipitate an alteration in the system of civil government.

10. Those resolutions were communicated to the Commission on the 1st March, repeated on the 13th May and 4th August; and although I do not mean to attach any blame to the delay, for I am aware of the difficulty of obtaining correct information from a distance without frequent reference and communication, still I must say it was not, in my opinion, right to press on Government the promulgation of the Regulation, before they had communicated the points of information required to precede it.

11. I am aware, however, of the necessity of preventing any delay, not absolutely unavoidable, in carrying into execution the orders of the Honourable Court. As it appears all the reports of the Collectors have not been received, I shall be prepared to assent to the promulgation of the Regulations in any district or division, where it is made to appear, from the result of the inquiry by the Commission, that no serious impediment presents itself against carrying the system into immediate execution.

12. The progressive introduction is, indeed, better calculated to ensure success than the sudden and general promulgation of the Regulation. If the system is to be introduced through the agency of the Commission, the introduction every where cannot well be simultaneous. The measure I propose would render it unnecessary to delay proceeding during reference to the Supreme Government. Some time must be taken up in the translating and printing of the Regulations; and if the papers should be immediately sent to Bengal, and if any part of the proceeding be considered inexpedient by the Right Honourable the Governor General in Council, their sentiments may still be received, before we have proceeded so far as to render retractation inconvenient.

(Signed) R. FULLERTON.

Fort St. George, 8th May 1816.

MINUTE *of* ROBERT ALEXANDER, ESQ.

Dated 17th May 1816.

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The urgent and decisive tone of the orders of the Honourable Court of Directors, conveyed in their judicial letter of the 29th April 1814, as well as the expense attending the mode of carrying them into execution, which they have themselves prescribed, seem to preclude any attempt to combat the principle of those orders, with a view to oppose the introduction of the measures which they have directed to be adopted.

The Government appear to have little more to do than to superintend the introduction of the new arrangements; a duty, however, of the highest importance, as it becomes necessary in the Regulations to be made for this purpose carefully to observe, not only that their provisions shall be, abstractedly considered, adequate to the object of their enactment, but that their effect, as far as is consistent with that object, shall involve no unnecessary deviation from the principles, or embarrassment to the operation of the present system, which, whatever may be its defects, has been found of eminent utility to the public, and which it is the declared intention of the authorities at home not to abrogate but to improve.

The Commissioners for revising the system of internal administration were, no doubt, in their labours, influenced by an attention to this necessary caution; but still a due observance of the principle, on the part of Government, rendered it a duty absolutely incumbent on them, to require the submission, in the first instance, of the drafts of the proposed Regulations through the Sudder Adawlut;

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lut; the established authority for the ultimate revision of all legal enactments by Government, and the only department considered competent, from its duties and information, to preserve complete and efficient the general code of Government, by preventing the discrepancies and contradictions which must inevitably arise, if the rules submitted through the various departments of the Government were not subjected to one common channel of revision.

The duty thus devolving on the Sudder court must, from its very nature, require great deliberation in its execution, which is hardly consistent with any great degree of celerity. To compose a Regulation for any specific purpose, must almost always be a much more easy and quick task, than to prepare it ultimately for promulgation; and I am of opinion, that to this period, no time has been unnecessarily lost, in introducing the several arrangements desired by the Court of Directors.

The Court, in the fourth paragraph of their letter, distinctly express their conviction of the fitness "and wisdom of proceeding with due caution and care "in the adoption of any material alterations in existing systems of government, "and the mischiefs which too often result from innovations in matters of such "important and delicate concern." It is true, that the sequel of the paragraph would imply their opinion, that their proposed measures were scarcely to be considered as innovations, and an inference may be thence drawn, that less caution may be necessary. It must, however, be admitted, upon their own principle, that caution in any measure becomes necessary, in the degree in which that measure is an innovation; and I confess I am disposed to view the plans proposed by the Commissioners, in execution of the orders of the Honourable Court, however salutary, as involving innovation, to a much greater extent than they appear to apprehend.

My local experience, I am very ready to admit, has been confined to very narrow limits, the whole of my services upon this coast having been confined to two districts of the Northern Circars, a great part of which is held on ancient zemindarry tenure: I should, therefore, be very sorry to be considered as putting my general knowledge or opinions in competition with those of the high Revenue Authorities quoted by the Honourable Court; but it is the duty of every servant, placed in my situation, to give the opinions resulting from a consideration of facts that have come under his observation.

In the part of the country above alluded to, head inhabitants were to be found in all, or nearly all the villages, under the designation either of Naidoo, Pidda Caupoo, or to the northward in the Ganjam district, Caugee; and among these, I am ready to admit, there were several of influence and respectability in their villages, and who might be properly employed in settling the differences and pecuniary disputes of the inhabitants: but, on the other hand, so many were of a different description, and so unfit for the duties it is now proposed to entrust to the village Moonsiff, that I cannot help anticipating evils from an act of Government declaring at once that all heads of villages are, by virtue of their office, to assume the duties and authority of that situation. I should accordingly feel disposed to recommend, that to preserve the principle, the office of head inhabitant should necessarily imply the eligibility to that of Moonsiff; but that none should be permitted to officiate in that situation, until previously furnished with a pottah by the Collector. The issue of such pottah is provided for in Clause 2, Section 3, of the Village Moonsiff Regulation; but it is only in case of a selection being necessary from among several head inhabitants. I think it would be far preferable to issue it in all cases.

It is true, that prior to the introduction of the judicial system, the head inhabitants were in the habit of sometimes exerting the influence they possessed in their respective villages in settling the disputes of the inferior Ryots. Their employment in these duties was, however, rather casual than regular. They were sometimes exercised on reference from the Collector; but excepting on such occasions, and when confirmed by him, their decisions were never considered as law: they were constantly appealed against to the European authority, whose decisions alone were considered to have the force of law; and the mere transition from a moving cutcheree to a fixed court did not, I am convinced, surprise or shake the confidence of the natives, nor was by them considered so great

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great an innovation as, in many parts of the country, will be the giving original and final jurisdiction to the head inhabitants in cases of property, even to the amount of ten rupees.

I do not wish, by these observations, to oppose the plan of employing the head inhabitants as Moonsiffs. I am an advocate for extending the native agency to the utmost in their judicial and municipal concerns; but I confess, that from my experience of the duties of head inhabitants, as I have seen them exercised in the districts committed to my charge (and I have had a good deal of intercourse with them) I should not have considered myself justified in representing them, as Colonel Munro has those of the Ceded Districts, in the light of Judge, Magistrate, and Collector, even of their petty communities. To make them so, in a certain degree, may be beneficial, but it will certainly be (in many parts of the country at least) an innovation.

I come, however, to what I consider a still greater innovation, and what appears to me to be repugnant to the principles laid down by the orders of the Court of Directors, and contrary to the general tenor of the information upon which those orders were founded.

The Potail, and in general the person, whether under that or any other designation, at the head of the villages, is considered an hereditary officer, superintending the agricultural economy of the village. The rights and duties, revenue and municipal, as represented by Colonel Munro, are all stated to be hereditary; and although the latter certainly have appeared to me more circumscribed in their extent than has been represented, the situation has been considered to descend in the same family, and to be forfeited only by misconduct. Zemindars may doubtless, in this as in other cases, have occasionally displayed their caprices, and removed head inhabitants upon slight or groundless pretences, but the succession was in general respected.

At present, from the provision of the proposed Moonsiff Regulation, it would appear intended that the office of Moonsiff should follow the rent of the Government revenue in the village; an innovation, as far as my experience will enable me to judge in the case, of the greatest importance.

I am well aware that, in the Ceded Districts, the influence of the Potail has been represented to be of that extensive nature, that it was considered as a general principle, dangerous to the revenues of Government, to allow any person to rent the village, who was not either Potail himself, or joined with the Potail in the lease; and, in consequence, Government, at the suggestion of the Board of Revenue, adopted the very strong, but as was believed, necessary measure, of sanctioning the eventual removal of such Potails as refused, either singly or jointly, to be concerned in the lease of their villages.

The policy or necessity of this measure I should be slow to doubt, considering the authority from which it originated; but the circumstance forms a convincing proof of the different degrees of influence attached to the situation of head inhabitants in different parts of the country, as in the Northern Circars. As far as my experience goes, the rent by a stranger, even of a single village, was never considered to involve the removal of the Naidoo, who during the lease was supposed, in his superintendence of the rural economy of the village, to support and secure the interests of the renter, as under aumanee or ryotwar management he would that of the Sircar. The Naidoo, in fact, was the head Sircar servant in the village; and though, in case of rent, it was often concluded with him, it was not considered as a measure of necessity, or indeed of very material importance to the revenue.

In a great proportion of the villages of the Ceded Districts, the very extensive enaums of the Potails give them a preponderating influence, by rendering them powerful competitors with the Government renters for the labour of the under Ryots; and hence chiefly, I believe, has arisen the necessity of including them in any engagement for leasing the land revenue of the Government, or for resorting to the alternative of removing them temporarily, at least from their situations.

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The latter, I am happy to say, has taken place in very few instances, for the measure certainly involves a degree of harshness, which should, if possible, be avoided; for though, strictly speaking, servants of the Sircar, they have a right from ancient usage and inheritance which should guard them, except in cases of the utmost urgency, from a removal, on the ground of mere expediency or without proved delinquency.

In order strictly and effectually to carry into effect the orders of the Honourable Court of Directors, it appears to me essential that the head inhabitants, wherever they may now exist, or whenever they may be subsequently established, should be maintained in their stations; which, for the duties expected from them to be successfully executed, should be confirmed, and independent either of any renter or renter's agent. Unless this be done, and if every temporary agent of the renter of revenue be admitted *ex-officiô* to the situation, where are we to look for the boasted advantages attributed to the services of the head inhabitants by the Court, in the thirty-sixth paragraph of their letter: their influence over the inhabitants in times of disturbance, from being considered their "natural and permanent superiors," and their peculiar qualifications, arising from their knowledge of the "general concerns of their villages "and the character of every one within them," acquired "from the particular "relation in which they stand to the people?"

In the territories of the Company, the revenues of which are unsettled, we may, no doubt, by an adherence to the ryotwar system, insure the services of the Potails and head inhabitants as Moonsiffs, even under the provisions of Section 3, of the proposed village Moonsiff Regulation, which will, under that system, not affect them; but the operation of that regulation is proposed to be universal throughout the territories under this presidency; and must, in consequence, be in force, as much where the direct interests and influence of the Government in the revenues of the lands have been permanently transferred, as where they still exist.

In these parts of the country it is not in the power of the Government to enforce the observance of the ryotwar system of revenue. There, it is probable, in general the ancient system of village rents will be found to exist; a system which will, I believe, be found to be of as great antiquity as the tehsildary management of the Ceded Districts. In general, these rents will be concluded with the head and other inhabitants jointly, and sometimes include the Curnum; but if this be not the case, and if they should occasionally be rented, either singly or in mootahs, to strangers, the circumstance will not be found, in general, to affect the situation of head inhabitant. To suppose that it must, of necessity, do so, is to suppose that the renter must necessarily take the place of the Naidoo or Potail, which is far from being the case. The renter does not rent the rights of the Potail but those of the Sircar, which are entirely distinct and independent. The renter, in fact, is placed, as regards the Potail, in the place of the Tehsildar or representative officer of Government. It has been urged, I know, as I have before stated, that the influence of a Potail of a rented village, having no concern in the rent, might, either from his intrigues or neglect, embarrass and impede the revenue affairs of the village, greatly to the detriment of the Government and their renter. Too much weight has, in my mind, been given to this argument: as Potails, they are servants of Government, with important revenue duties to fulfil; and if they palpably neglect these duties, they are of course liable to removal, and I think the great interest they have at stake will, in general, ensure their fidelity to the Sircar.

I have said thus much to support my opinion, that the circumstance of a village being rented to another than the head inhabitant need not, of necessity, involve the privation, on the part of the head inhabitant, of all his duties and authority.

Judging from the tenor of the third section of the proposed Moonsiff Regulation, there is an apparent desire of accommodating the judicial to the revenue system, and making the objects of the one rather secondary and subservient to those of the other: a principle, certainly, as diametrically opposite as possible to the one that was supposed to actuate and pervade the judicial system so long

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established, which was that of separating and rendering distinct the judicial functions and authorities from those of the fiscal department.

The advantages of adhering, as far as circumstances will admit, to the latter principle, are, I believe, generally admitted, and it would certainly be desirable, if possible, to preserve distinct the duties of the two departments, from the highest to the lowest functionaries of each. This perfection of the system is however, scarcely attainable, consistent with the employment in judicial matters of the agency of that class of people pointed out, and prescribed to the Government by the Court of Directors; and I am ready to admit, that the many important qualifications which they possess, from their local knowledge and respectability, and from the habitual deference which their situation is likely in many cases to have established in the minds of the inhabitants, constitute advantages which may be supposed to counterbalance the objection arising from their being concerned in the management of the revenues, even though they should occasionally farm them from Government; but to select a person for the judicial office of Moonsiff, expressly on the score of his holding the situation of renter, or renter's agent, is, I confess, in my mind, to give him a preference, on account of his possessing what ought, abstractedly considered, to constitute, in a certain degree, a disqualification.

Entertaining these sentiments, I think it my duty to state my objection to admit the proposition of the Commissioners, of declaring every resident village renter, or every village renter's resident agent, to be *ex-officiò* head inhabitant, and consequently Moonsiff of such village. Such a proposition is not warranted by any thing that I can discover in the letter from the Court of Directors. On the contrary, in every passage of that letter referring to the subject, there is a marked desire to support and uphold the character of the persons whom they point out as proper for the village judicial offices, which it is the obvious tendency of the measure in question to confound and degrade.

I am not altogether unaware that the provisions of Regulation XVI. of 1802 may be urged, as opposing the objections I have suggested to the appointment of revenue managers to the office of Moonsiff; but the two cases appear to me to be widely different. In the one, a large body of extensive landholders and farmers, high revenue officers and substantial tradesmen, are pointed out to the notice of the Judge, as likely to possess the greatest influence and respectability, from among whom he is to select such as he thinks, from character and talents, best suited for the office of Commissioner: in the other, the single circumstance of managing the village revenue is declared to be a sufficient qualification, and to do away the necessity of selection altogether.

In the foregoing remarks, I have stated my objection to what appears to me a defect in the propositions of the Commissioners, as militating both against the spirit and letter of the orders of the Court of Directors. My objection applies to the village Moonsiff Regulation, which may, in fact, be considered as the groundwork of the whole.

To this time, the Government has not received from the Commissioners any specific report upon the points to which their attention was particularly called in the proceedings of Government, of the 1st March 1815, with a view to their being ascertained previously to the preparation of the Regulation for village courts. The difficulty of ascertaining with accuracy the points in question, throughout the whole of the territories under this presidency, might be likely to occasion a delay, inconsistent with the expectations of the Honourable Court; and on this account, I think, the promulgation of the Regulation might be admitted, without waiting for the report: but, in this case, some alteration of the Regulation, as it now stands, appears to me to be necessary.

The operation of the Regulation, as it now stands, is declared universal throughout the territories under this Government: at least no provision is made for any exception, although Government is as yet in ignorance whether the fitness, or even the existence of the instruments whereby it is proposed to be carried into execution has been ascertained. This appears to me a defect, but line of easy remedy; and for the purpose, I would with deference propose, that while the principle of the Regulation should be declared universal, its immediate

mediate active operation should be made conditional, at least so far to depend on the sanction of the local authority, that no head inhabitant should enter upon the duties of the office of Moonsiff until furnished with the Collector's pottah, which would, in that case, be issued in all those parts of the country where the proper instruments for its execution might be found to exist.

In some parts of our territories, particularly Malabar and Canara, few or no village communities are to be found; I would, therefore, suggest the propriety of a clause being inserted in the Regulation, providing for the exercise of the authority of Government, in nominating, in certain situations where persons answering the description of head inhabitants might not be found, others to supply the place of that description of people.

The above appear to me the most desirable alterations to the Village Moonsiff Regulation, and such as I consider might be introduced without any departure from the principle of its enactment.

The general detailed provisions of the different Regulations appear to me unobjectionable; but there are one or two points in which, in my humble judgment, they are open to amendment, and which I shall accordingly proceed to detail.

Regulation I.

I have sufficiently expressed my opinion respecting the third section of this Regulation, which, I think, should be so altered as to exclude altogether the appointment *ex-officiô* to the situation of head inhabitants, the renters or revenue managers, confining the selection to the principal inhabitants of the village.

In Clause 3, Section 4 of that regulation, "gross partiality" has been accidentally omitted, from the proposed admissible grounds of appeal from the decision of the Moonsiff.

In Section 22, the village Moonsiffs are referred to Regulation XXXIV. of 1802, for their guidance in the admission of interest on the claims brought before them. It appears to me that it would answer the purpose better, either to quote the Regulation, or to abstract its substance in this clause, so that nothing might be left to the Moonsiff's reference.

Regulation II, for Village Punchayets.

In Clause 5 of Section 4 of this Regulation, a provision should be made for delivering, or allowing to take, a copy of the plaint, which has, I apprehend, been accidentally omitted.

By Clause 4, Section 11 of this Regulation, it is directed, that "if the partiality charged against the punchayet shall be established, to the satisfaction of the Judge, by the oaths of two credible witnesses at the least, he shall submit his proceedings, with his opinions on the case, to the provincial court of appeal, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision."

On this I would remark, that I do not perceive the grounds for circumscribing the jurisdiction of the zillah Judge more in his decisions, in cases of appeal from the proceedings of punchayet, than in any other, more particularly as, in these cases, a negative voice is all that he can give, and the parties are left to choose the course of their further prosecution of the suit. In the case of the punchayet decisions regarding boundaries, final power is given to Collectors, by Clause 1, Section 9, Regulation VI, to set aside the decision on proof of partiality. This additional authority beyond that of the Judge, the Commissioners explain, is given in consequence of the local knowledge of the Collector. I do not think the reason for the distinction is sufficient. It would infer a greater local knowledge in the provincial court than in the zillah Judge, which may very often not exist; and while the reference must occasion loss of time, and in small cases is degrading to his authority, I am of opinion that the zillah Judge, like the Collector, should have the power, on proof to his satisfaction of corruption and gross partiality, to set aside the decrees of the punchayets, at least to the extent to which his jurisdiction is by Regulation limited, in ordinary cases of property.

Regulation

Regulation III, District Moonsiffs.

Mr. Alexander's Minute, 17 May 1816.

In Section 27 it is provided, that with the consent of one party it shall be permitted to decide causes by the oath of the other. This is certainly customary among natives, and I think, notwithstanding the objections of the Sudder court, might be admitted in the native tribunal; but as the jurisdiction of district Moonsiffs admits of appeal, a clause should be inserted, confining the mode of settlement described in this section to suits for an amount not appealable, or prescribing a written declaration from the party admitting the decision by the oath of the other, that such decision should be final, and without appeal.

Without such a precision, every appeal in the cases supposed must carry with it a charge of perjury.

Regulation V, Sudder Aumeens.

I am of opinion that the reasons assigned by the Sudder Court, for not appointing the Hindoo law officers of the provincial courts to be Sudder Aumeens in the zillah in which they are stationed, although not noticed by the Commissioners in this last report, are valid and decisive against that measure, to which I must therefore object.

Regulation VI, Boundary Disputes.

Upon the same principle that boundary disputes are referred to the Collector's jurisdiction, aided by village or district punchayets, I would recommend that disputes concerning water be also referred to the same tribunal. From experience I can say, that disputes on the latter subject give rise to as frequent broils and disturbances, and require as accurate local investigation for their adjustment, as those provided for in the Regulation, which might easily be modified so as to embrace the object I propose.

I concur in opinion with the Sudder Adawlut, that for the purpose of rendering effectual the operation of Regulation VI, it will be very expedient, if not necessary, to rescind Sections 2 and 3 of Regulation XXXII of 1812. The declaratory provisions of those sections are positive; and if they be not rescinded, it appears to me that occasion will be given for the collision of two authorities, as the same cause of dispute will be often referred to two separate tribunals, independent of each other, but with concurrent jurisdiction in the case.

Regulation VII, Police.

Considering how many duties of Magistrate are to be transferred to the Collectors and their Assistants, under the provision of this Regulation, I think the administration of the oath proposed by the Sudder Adawlut to be proper.

The Commissioners, in the new draft of this Regulation, have given force to the zillah Magistrate's warrant to the Police officers, within the limits of the village or township where the court is situated. This is an improvement; but in reference to the duties which he still has to perform in the administration of criminial justice, I am of opinion that it is expedient to increase this authority, and to give him a discretional authority in cases of heinous offences, where he may deem it necessary to issue his warrant to any Police officer, reporting at the same time the circumstance to the Superintendent.

(Signed) ROBT. ALEXANDER.

17th May 1816.

EXTRACT JUDICIAL LETTER *from* FORT ST. GEORGE,

Dated the 26th September 1816.

Judicial Letter from Madras, 26 Sept. 1816.

Par. 2. We have since had the honour of receiving your Honourable Court's letter of the 20th December 1815, in which you communicated to us your sentiments with regard to the measures adopted by us for carrying into effect your orders

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orders of the 29th of April and 4th of May 1814, in so far as you had at that period been informed of our proceedings on the subject, and furnished us with your further instructions on some particular points, respecting which your former orders appeared to have been misunderstood.

3. The papers referred to in the ninety-seventh paragraph of our last dispatch from this department, together with those which accompanied the letter addressed by our Secretary to Mr. Secretary Cobb, under date the 29th of June last, will have afforded full information to your Honourable Court with regard to the further measures which had been adopted under those orders, previous to the receipt of the dispatch under reply.

4. Having taken that dispatch into consideration at our meeting of the 25th of May last, we then adopted the following resolutions: first, that the dispatch should be communicated for the information of the Commission for revising the Judicial system; secondly, that the Commission should be directed to suspend the printing of the Regulations which had been passed respecting boundary disputes and the police, and to frame other Regulations in their room, conformable to the instructions of your Honourable Court, and submit them to Government; thirdly, that a copy of the seventh paragraph of your Honourable Court's letter should be circulated, for the information of all the local Authorities.

5. Your Honourable Court's dispatch, together with the foregoing resolutions, having accordingly been communicated to the Commission, the printing of the police and boundary Regulations was immediately suspended, and the drafts of three new Regulations were prepared and submitted to us by the Commission, having the following as their titles:

1st. A Regulation for reducing into one Regulation certain rules which have been passed regarding the office of zillah Magistrate, for modifying and defining his power, and for transferring the office of zillah Magistrate from the Judge to the Collector of the zillah.

2d. A Regulation for constituting the Judges of the courts of Adawlut of the several zillahs criminal Judges of their respective zillahs, and for defining their powers.

3d. A Regulation for the establishment of a general system of police throughout the territories subject to the Government of Fort St. George.

6. These drafts of Regulations, accompanied by a letter from the Commission, having been laid before us at our Consultation of the 8th July, we caused a copy of your Honourable Court's letter of the 20th December last, together with copies of the three proposed Regulations, and a copy of the letter of the Commission, to be transmitted to the Foujdarry Adawlut. We at the same time thought it proper to direct, that in revising these drafts, the Foujdarry Adawlut would abstain from all discussion with regard to the principles laid down in the letter of your Honourable Court, which, it was observed, were to be their guide; and as it was considered of great importance to avoid delay, we desired that their report should be submitted within a period not exceeding fifteen days from the receipt of the letter in which our orders were communicated to them.

7. The report of the Foujdarry Adawlut, contained in an extract from their proceedings, which accompanied a letter from their Register, dated the 29th of July, was laid before us by our President, at our Consultation of the 7th of August, and on the recommendation of our President was referred to the Commission for their consideration and report.

8. Mr. Fullerton at the same time recorded a minute, in which he signified his assent to the transmission of the proceedings of the Foujdarry Adawlut to the Commission for their consideration and report; but remarked, that the express object for which the proposed Regulations were sent to the Foujdarry Adawlut, the revision of their several provisions in detail, had not been obtained, and that, therefore, whatever alterations should be made by the Commission, they ought still to undergo that revision. Mr. Fullerton also alluded to the necessity of obtaining the report of the Foujdarry Adawlut, on the points submitted to them in our proceedings of the 1st of March 1815.

 9. In

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9. In acknowledging the receipt of the proceedings of the Foujdarry Adawlut, on the subject of the three Regulations proposed by the Commission, we took occasion to intimate to them our desire to be furnished, at as early a period as possible, with their proceedings on Articles 11, 12, 13, 14, 15, and 16 of our proceedings bearing date the 1st of March 1815, as much inconvenience was experienced from the want of them.

10. A reference has been made to the Board of Revenue, at the suggestion of the Sudder Adawlut, for the purpose of ascertaining whether, in framing the provisions of the draft of the Police Regulation, due attention has been paid to the public obligations contracted in forming the present arrangements with regard to the Police collections, in Tanjore and in the zillah of Chingleput.

11. At our consultation of the 7th of August, our President called our attention to the orders contained in the fourth paragraph of the letter from your Honourable Court, dated the 20th December 1815, respecting the allowances received by Colonel Munro, the First Commissioner; and, with the view of giving effect to those orders, proposed that, agreeably to the precedent of Mr. Dick, when he held the office of General Superintendent of Investment, Colonel Munro should, from the date of the receipt of those orders, be permitted to draw the sum of five hundred pagodas per mensem, in lieu of all travelling and other necessary expenses, but that this allowance should be made subject to the approbation of your Honourable Court.

12. We resolved to adopt the measure proposed by our President; and orders have, accordingly, been issued for carrying it into effect.

13. Mr. Fullerton, however, dissented from the resolution of the Board, and recorded the minute referred to in the margin,* explanatory of his view of the orders contained in your Honourable Court's letter, and of the manner in which he conceived that they ought to be carried into effect.

14. Having brought to the notice of your Honourable Court the measures adopted by us, in consequence of the receipt of your letter of the 20th December last, we have now the honour to report such of our late proceedings, connected with the business of the Commission, as have not had their origin in the orders conveyed by that letter, but have been adopted in prosecution of the resolutions we had already formed, in so far as those resolutions appeared conformable to your recent instructions.

15. The several Regulations, drafts of which were transmitted to your Honourable Court with our Secretary's letter of the 29th of June last, having, with the exception of the two respecting boundary disputes and the Police, been printed, under the direction of the Commission, in pursuance of our resolution of the 17th of May, copies of them were circulated, in the usual manner, to the several local officers of Government. A circular letter was, however, addressed to the local officers,† desiring that those Regulations should not be acted upon, until certain preliminary arrangements should have been carried into effect, of which they would receive due notice from the Commission; and the Commission were furnished with a copy of the letter, and were desired to report, first, the means which, in their opinion, ought to be adopted for carrying into effect the Regulations proposed by them, and secondly, the number and the pay of the district Moonsiffs, which they thought would be required in each zillah.

16. At our consultation of the 22d June, there was laid before us a letter from the Commission, stating their opinion that Regulation VIII. of 1816 (the Regulation for the appointment of the Hindoo law officers of the provincial courts to be Sudder Aumeens) might be immediately acted upon; and we accordingly caused circular instructions to be issued to the several local authorities, directing them to carry that Regulation into immediate effect.

17. In compliance with a recommendation submitted to us by the Commission, in another letter which was laid before us at the same consultation, we directed

* Consultations, 7th August, Nos. 6, 7, 8, 9. † Consultations, 8th June, Nos. 18, 19.

rected the Persian, Tamil, and Telugoo translators to prepare and send to the Commission twenty-five manuscript copies of their translations of the new Regulations, with the view of diffusing the more speedily a knowledge of their provisions among the natives.

18. At our consultation of the 15th of July, there was laid before us a letter from the Commission, containing the report which we had called on them to submit, respecting the means which, in their opinion, ought to be adopted for carrying into effect the Regulations prepared by them, and the number and pay of the district Moonsiffs which they considered necessary in each zillah. For information regarding the detailed measures which the Commission proposed for carrying into effect the Regulations we beg leave to refer your Honourable Court to their letter.

19. The total annual amount of the pay proposed by them for the district Moonsiffs is Pagodas 22,440.

20. We beg leave to point out to the notice of your Honourable Court a minute recorded by our President,* on the subject of this letter from the Commission; and also a minute recorded by Mr. Fullerton,† on the same subject.

21. Your Honourable Court will observe, from our proceedings on this subject, that we have deemed it proper to desire the Sudder Adawlut to state what is likely to be the amount of the receipts of Moonsiffs from fees of office.‡ You will also observe, that agreeably to the recommendation of our President, we have authorized the Commission to adopt the measures proposed by them for carrying the Regulations into effect, have fixed the number and pay of the district Moonsiffs as they proposed, and, agreeably to their recommendation, have instructed the several provincial courts to proceed to appoint those officers.

22. With reference to a preceding paragraph, in which we stated that a circular letter had been addressed to the several local Authorities, desiring them not to act upon the Regulations lately enacted, until they should have received an intimation of the completion of the necessary preparatory arrangements, we deem it proper to point out to the notice of your Honourable Court a communication which in consequence of that circular letter has been received by us from the Sudder Adawlut, explaining the grounds on which they consider an order of Government, transmitted through a Secretary in the usual manner, as was the case in that instance, to be incompetent to suspend the operation of any Regulation, which has been regularly enacted and promulgated under the authority vested in Government by the British Legislature.§ The communication having been taken into consideration at our meeting on the 7th of August, we caused a copy of it to be furnished to the Commission, with an intimation of our desire, that if, in their opinion, it was necessary to continue the suspension of the operation of the Regulations, they would frame the draft of a Regulation for that purpose, and submit it to us without delay. We have received a letter, in reply, from the Commission, bearing date 17th August, in which they state their opinion, that the necessity of suspending the operation of the Regulations no longer existed.

71. With reference to a preceding part of this letter, we have the honour to transmit, as a number in the packet, an extract of our proceedings, under date the 13th instant, with copies of the following papers, which are therein referred to, viz. two letters which have been received from the Commissioners for the revision of the Judicial system, along with amended drafts of the three Regulations which were referred back to them on the 7th of August, containing such alterations as they have introduced into the drafts which they originally submitted to us, and with the draft of a Regulation for the settlement of boundary disputes; the four drafts of Regulations just adverted to, and two minutes of our President, referred to in the extract from our proceedings. We also transmit, for your early information, an extract from the proceedings of the Board of Revenue, which has been submitted to us in reply to the reference we caused to be made to that Board, on the subject of the proposed Police Regulation, and also a copy of the letter from their Secretary with which it was received.

* Consultations, 15th July, No. 7. † Ditto, 20th July, No. 7.
‡ Ditto, 15th July, Nos. 9, 10; 20th July, Nos. 8, 9. § Ditto, 7th August, Nos. 10 and 12.

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received. We have thought it incumbent on us to cause our acknowledgements to be communicated to the Board of Revenue, for the ability and attention which they have bestowed on the subject discussed in those papers.

72. Mr. Fullerton and Mr. Alexander having recorded their sentiments on the subject of the new Regulations, in pursuance of the intentions they expressed at our meeting of the 13th instant, we transmit copies of their respective minutes, together with a copy of a subsequent minute by our President, for the information of your Honourable Court.

REPORT *of* SUDDER ADAWLUT,

Dated 29th July 1816.

To the Secretary to Government in the Judicial Department.

Report of Sudder Adawlut, 29 July 1816.

SIR:

I am directed by the Foujdary Adawlut to transmit to you the accompaning extract from the Court's proceedings of this date, for the purpose of being laid before the Right Honourable the Governor in Council.

I have the honour to be, &c. &c.

W[M]. OLIVER,
Register.

Foujdaree Adawlut, Register's Office,
29 July 1816.

Extract from the Proceedings of the Foujdarry Adawlut, under date the 29th July 1816.

Read again letter dated the 8th, but received the 18th instant, from the Secretary to Government in the Judicial department, forwarding copy of a letter from the Honourable the Court of Directors, dated the 20th December last, and drafts of their Regulations proposed by the Commission for revising the Judicial system, together with copy of a letter from the Commission respecting the drafts.

Sic. orig.

In the foregoing letter it is observed, that "in revising these drafts the " Foujdarry Adawlut will abstain from all discussion with regard to the prin- " ciples laid down in the letter from the Court of Directors, which are to be " their guide; and as it is considered of great importance to avoid delay, the " Governor in Council desires that their report may be submitted within a " period not exceeding fifteen days after the receipt of this letter."

If the first part of the above quotation be intended to convey a censure on any former proceedings of the Foujdarry Adawlut, the Court must regret that an opportunity has not been afforded them of explaining any error into which they may have inadvertently fallen. If it be intended to limit the proceedings of the Court of Foujdarry Adawlut, in the revision of the drafts, to the consideration of those drafts only, it is the duty of the Court to observe, that those drafts contain a decision on the Articles 11, 12, 13, 14, and 16, specifically referred to the Court, in the proceedings of Government bearing date the 1st March 1815, which articles were, together with the others referred to the Court in its civil capacity, transmitted to the several local authorities, for their opinions, as required by the orders of Government conveyed in those proceedings.

The returns of the several Judicial authorities were long ago received; and the delay which has occurred in forwarding them to the office of Government is solely to be ascribed to a violent illness which seized the second Puisne Judge of the Court, not long after the revised drafts of the Regulations formerly transmitted by the Commission were sent to the office of Government, and entirely interrupted the preparation of the report, which he had undertaken

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taken to frame on the returns of the several Judges and Magistrates regarding the points referred to them. But for this accident, the proceedings of the Foujdarry Adawlut on the important subjects included in the articles referred to would have been submitted to the consideration of Government before this time; and any Regulation which might, subsequently to the receipt of such proceedings, have been sent to the Court, with a communication that the principles continued in them had been sanctioned by the Governor in Council, might be revised in a comparatively short period; because the revision would be confined to the transposition of words and sections, with the view of freeing the drafts from all ambiguity, and rendering them as clear and familiar to common understandings as the nature of the subjects admitted.

But, with regard to the drafts before the court, the period within which the Right Honourable the Governor in Council has been pleased to desire that the report of the court shall be furnished, is too limited to admit of a revision of their several provisions in detail. This, indeed, would appear from that very limitation not to be expected; and, on the cursory view which the Court have been enabled to take of the drafts, they have observed deviations from the orders of the Honourable Court of Directors, on the propriety of which it is for the Right Honourable the Governor in Council to decide, and alterations of the existing regulations comprizing very material departures from the principles on which they are framed.

The orders of the Honourable Court are positive, that their instructions for " the transfer of the duties of Magistrate to the Collectors be carried into " effect, so as that the zillah Judges may be enabled to give their whole time " to the administration of civil justice;" whereas the Commission have made them, under the title of the criminal Judge of the zillah, the committing Magistrates in all cases triable by the Court of Circuit: and their reason for so doing, if the Court understand their letter correctly, is to obviate the collision which they apprehend would frequently occur between the Collector, constituted Magistrate, and the Court of Circuit, if he were brought too much into contact with that court, by being required to perform the duties of Magistrate, as directed by the Honourable Court. The material interruption which it would occasion to his other business, is also stated as an objection to the measure; but, in the hands of the zillah Judge, these duties are not considered likely to occasion any of these bad consequences. With regard to the objection founded on the interruption likely to be occasioned to the revenue duties of the Collector, the Court apprehend that the commitment of offenders for trial would form but a small part of the interruption which it is considered desirable to avoid, and an attendance on the Court of Circuit twice in the year would not extend to any considerable occupation of the Collector's time. These consequences constitute but small objections, in the opinion of the Court, to the complete execution of the orders of the Honourable Court of Directors; and with regard to the apprehended collision between the inferior and superior authorities, it is evidently a consequence for which the Honourable Court of Directors were not prepared, and which, if it do happen, must flow from the same source as the most weighty objections to the arrangements, viz. the revenue administration being the primary, and that of justice the secondary duty of the office, a Collector considering himself as firm in his revenue office may neglect his judicial duties, may possibly disregard, disobey, and oppose the orders of the Court of Circuit. But any instance of this nature would constitute an evil which, it is to be presumed, need only to be known to the Government to be immediately removed. The most zealous Collector might, doubtless, be readily replaced by another, if he should prove to be a wilfully bad Magistrate. An instance of this nature, supposing it to occur, would not, however, constitute a collision of authority, which indeed cannot occur between two authorities distinct in themselves, and the one subordinate to the other.

The Commission have provided, and it is understood to be the intention of the Court of Directors, that all persons charged with criminal offences shall be brought, when apprehended, before the Collector as Magistrate; and in all cases of a trivial nature, the Commission have provided, that the enquiry shall be perfected by the Collector, whom they have empowered to pass sentence to

 a certain

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a certain extent: but in cases of a degree of criminality exceeding this limitation, if there shall be reason to suspect the prisoner to be concerned in the perpetration of the crime, the Collector, as Magistrate, is required to send the prosecutor, the witnesses, and the prisoner, with the proceedings on the case, to the criminal Judge of the zillah. "But," it is added, "it shall not be necessary for the Magistrate to go further into the examination, than to satisfy his own mind that there is ground to believe the prisoner guilty of the crime charged against him."

The introduction of this duty by a negative may lead to different interpretations, as to the sufficiency of the ground on which the Magistrate is at liberty to found his belief of the guilt of the accused. If, as the Court would interpret the Regulation, the belief on which the Magistrate is to forward the accused to the criminal Judge of the zillah, for trial or commitment, according to the nature and degree of his criminality, be required to be the result of a grave proceeding, sufficient to warrant the commitment of the prisoner for trial, all that is left to be done is to make out the mittimus of the prisoner, to ascertain and record the names and residence of his witnesses, and to take recognizances from the prosecutor and his witnesses to appear on the day fixed for trial: and to take these matters of form from the Magistrate is to afford him relief in appearance rather than in reality; while, in order to enable the criminal Judge to repeat the discharge of the duty, which has already been performed by the Magistrate, of inquiring into the alleged guilt of the prisoner, previously to committing him for trial before the court of circuit, the prosecutor in most cases, and the witnesses for the prosecution in all, will be put to the inconvenience of making a journey to a distant tribunal, and this inconvenience they will have again to go through at the trial of the prisoner.

If the preliminary proceedings of the Magistrate should not be conducted with sufficient care, which it is reasonable to apprehend may happen when no responsibility is incurred by defective proceedings, it may be necessary for the criminal Judge to call before him and examine other witnesses, whose evidence may be found necessary to elucidate the case, and inconvenience and delay may thus be occasioned, which might be avoided by requiring the Magistrate to perfect his proceedings on his own responsibility, in the first instance: and it has been shewn, that the relief which is intended to be given to the Magistrate, by incurring the chance of this inconvenience, is immaterial.

With regard to the preparation of all papers for the trials before the court of circuit, and the charge of the jail, which are proposed to be given to the officer designated the criminal Judge of the zillah, this may be done without in any respect interfering with the discharge of the duties of Magistrate; but in view to the provisions which require that the Magistrate shall cause certain calendars to be delivered to the courts of circuit, it appears proper that the officer charged with the superintendence and control of the police, and with the preservation of the peace of the zillah, should in person deliver to the court, authorized to inquire into the mode in which those duties are performed, the returns shewing how such duties have been executed, and that he should receive such orders as that Court may think proper to pass on such returns. A due regard for the preservation of the outward forms of respect, which the Government have been pleased to direct that the Magistrates shall pay to the courts of circuit, would appear to require that this obligation shall be transferred with the other duties of the office; and as the occasions for it will occur no oftener than twice a year, they cannot occupy the Collector's time and attention for any inconvenient length of time.

These observations have no reference to the general inconveniences which have been considered by many of the judicial servants as likely to result from the transfer of the duties of Magistrate to the Collectors, that question being considered to be put at rest, for the present at least, by the positive orders of the Honourable Court of Directors; but it is impossible entirely to overlook the distresses to which the poorer classes may be subject, in pursuing the motions of a wandering tribunal, or not to contemplate the probability of a future arrangement, not very distant perhaps, for declaring that the office for receiving and hearing complaints of personal injuries and outrage shall be held at a known

known fixed station, and that it shall not be necessary for an aggrieved party, seeking redress, to follow the footsteps of an individual public officer.

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The measures under consideration, although so far salutary as they relieve the zillah Judge from the duties of Magistrate, include so obvious a defect, that they may be regarded as merely preliminary to some more permanent arrangement; and as the Honourable Court have resolved that the experiment shall be tried, it is to be concluded that they will be guided by the result of that experiment, in determining on the arrangement which may be indicated by it as most expedient and permanently beneficial in the administration of criminal justice in India.* This consideration would appear to point out the propriety of assigning new names to the new offices created in the course of the experiment, rather than to strip an existing office of its known designation, and give to it an appellation indicative of a change which has not taken place in the authority vested in the office: this observation is applicable to the Regulation constituting the zillahs, criminal Judges of their respective zillahs, a title which would lead to the supposition that a new office had been constituted in each zillah, whereas, on an examination of its provisions, it appears that the several zillah Magistrates have been exercising the authorities and powers proposed to be vested in the criminal Judges for several years past. But having conferred on the Collectors the title of Magistrate, because a part of the duties of the Magistrate are to be transferred to them, a necessity arose of giving a new name to the old office; and if the commitment of offenders, in cases cognizable by the courts of circuit, be continued in that office, the title of criminal Judge cannot be considered as applicable to the committing Magistrate. But setting aside all consideration of verbal proprieties, in consequence of the transfer of the title of Magistrate to the Collector, a difficulty has arisen, and the Commission have proposed a remedy for it, on the legality of which the Right Honourable the Governor in Council may deem it expedient to require the opinion of the Company's legal adviser.

In the nineteenth paragraph of the letter from the Commission, they state as follows: " we have not given the criminal Judge any cognizance of crimes " committed by European British subjects, because the 53d Geo. III, Section " 105 and 106, speak of the Magistrate only." This would appear to admit that the fixed resident Magistrate is the officer to whose authority European British subjects ought to be amenable in the cases stated in those sections, and that it is the authority contemplated by the Legislature in framing the act; but by taking from the judicial officer the appellation by which his office was known, at the time when the act was framed, the Commission deprive the native subject of the means of prompt redress of injury intended to be given to him by the Legislature, and they render the European British subject liable to be dragged in attendance on the travelling office of the Collector, in a manner which could never have been in the contemplation of Parliament.

The difficulty would be removed, by leaving to the zillah Magistrate his present title, and distinguishing the Collector by that of police Magistrate of the zillah.

With regard to the instances in which the proposed draft of the Regulation for the office of Magistrate extends to the rescission of provisions in the criminal code, for the abrogation of which the Commission quote no authority, the first is described in the thirteenth paragraph of their letter. They observe, that " by Clause fifth, Section 4, Regulation I. 1810, the power of Government in " confirming the attachment of the landof absentees for contempt of summons " is absolute, as it ought to be, without any previous report from the Foujdarry " Adawlut; but by Sections 2 and 3 of the same Regulation, in cases of re- " sistance to process, the sentence of the Foujdarry intervenes, and their report " is necessary previously to the final determination of Government. We make " the matter in both cases referable directly to Government for their decision, " without any report from the Sudder Foujdarry, because we see no sufficient " reason for incurring delay in the one case more than the other; and because " we think that the decisions of Government should be prompt, wherever the " authority of the Magistrate is to be supported."

These

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These reasons for changing the existing law have no application to the process prescribed in either case; for, with reference to the first, the delay is not on the side on which the Commission have supposed it to be, and with regard to the latter, although the Court would be disposed to agree in opinion with the Commission on the abstract proposition, that where the decision of Government may be necessary to support the authority of the Magistrate such decision should be prompt, it is not for this purpose that Government is called upon for a decision in either of the two cases in question.

A concise abstract of the law will be sufficient to explain this matter.

The first case in the Regulation, though the second in the order they are treated of in the letter of the Commission, is a charge of resistance of process, the penalty provided for which offence is forfeiture of property or fine (with eventual imprisonment or corporal punishment if the fine be not paid).

This is the case in which the Commission have supposed the delay to happen; but the process prescribed in the Regulation would appear to be sufficiently prompt. The Magistrate of the zillah in which such resistance may "have "been made, on the same being charged on oath shall, if practicable, cause "the party to be apprehended and brought before him to answer to the charge. "If the party shall abscond or conceal himself, so that he cannot be appre- "hended, the Magistrate is to cause a written proclamation, requiring the "party to appear to answer to the charge against him within a fixed period of "time (not less than one month) to be publicly read and proclaimed by beat "of drum, &c."

"If the party charged as above cannot be apprehended, and shall not, within "the period fixed by proclamation, appear to answer to the charge against him, "or if he shall appear in pursuance of the proclamation, and after receiving "his answer to the charge, and hearing the evidence he may adduce in his "defence, it shall be proved, to the satisfaction of the Magistrate, that he is "guilty of the charge, the Magistrate is to pass judgment against him."

If the offender be a proprietor of lands, whether paying or exempt from paying revenue to Government, the Magistrate is to declare such lands forfeited to Government, and immediately to cause the Collector of the district to attach such lands.

If the offender be a Sudder farmer, holding a farm from Government within the zillah in which the resistance may have been made, the judgment against him shall declare his lease forfeited, and the Magistrate is to require the Collector to proceed as above directed, with regard to lands declared to be forfeited.

If the offender be not a proprietor or Sudder farmer, the judgment is to declare him liable to the payment of a fine to Government, commutable, under certain circumstances, with the concurrence of the Foujdarry Adawlut, to imprisonment or corporal punishment.

In cases of resistance to process, not attended with aggravating circumstances, the Magistrate may pass such sentence as appears to him proper, and carry the sentence into execution without reference to the Foujdarry Adawlut, such sentence being subject to revision by the court of circuit, under the general powers vested in that court.

Provided always, that the whole of the judgments passed by Magistrates under this Regulation (with exception to the last-mentioned case) be immediately reported, with a complete copy of their proceedings, to the court of Foujdarry Adawlut, and that the orders of that court be received before the judgment passed by a Magistrate be considered final and conclusive.

The Foujdarry Adawlut, on the receipt of the proceedings above referred to, are to pass such order thereon as they may think proper, on due consideration of the evidence and all the circumstances of the case; and in all instances wherein the forfeiture of the offender's lands or leases may appear to them too severe a punishment for the offence, they are authorized to commute the same for such fine to Government as they may deem adequate, and order the attachment of the lands to be taken off on payment thereof. The sentence of the

Foujdarry

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Foujdarry Adawlut is to be final, in all cases of fine, imprisonment, and corporal punishment; but in case they shall confirm the judgment of the Magistrate for a forfeiture of the offender's lands or lease, they are, previously to ordering such sentence to be carried into execution, to transmit their proceedings, with those of the Magistrate, to the Governor in Council, who will finally determine whether the sentence of forfeiture shall be put in force, or commuted to a fine, or otherwise; and who, whenever he may order the land or lease of the offender to be forfeited to Government, will at the same time cause the necessary instructions for the future disposal of the land to be conveyed to the Collector through the Board of Revenue.

Throughout the whole of these provisions, the decision of Government is not called for to support the authority of the Magistrate. The law always gives sufficient support to his authority, in declaring the forfeiture of property to be the penalty for resistance to process; and so far as the authority of the Magistrate is concerned, it is upheld by the immediate attachment of such property. The subsequent progress of the matter is towards such a mitigation of the sentence as may be obtained in the higher court. If the forfeiture should be confirmed, a reference to the Governor in Council, in every such case, must be necessary, in order that he may issue orders for the disposal of the property accruing to Government by such decree of forfeiture. And here the law has leniently provided a further opportunity for the offending individual to endeavour to preserve the property which he may have thoughtlessly endangered, the Governor in Council being unrestricted as to the circumstances which he may be pleased to take into consideration, in determining whether the sentence shall be enforced, mitigated, or remitted altogether.

There is nothing in the Regulations to prevent the case from going through all these stages in three months or less.

The other case is of a totally different nature: it is that of a person charged with an offence of a criminal nature, the penalty provided for which must vary according to the degree of its criminality.

In this case, if the accused person abscond or conceal himself, so that upon a process issued against him by the Magistrate, he cannot be found, the Magistrate is to require him, by proclamation, to attend, and answer to the charge against him within a fixed period of time, not less than one month; and in case he shall not appear and deliver himself up within the period fixed by such proclamation, the Magistrate, on receiving the Nazir's return to this effect, is to order the attachment of any land, or other real property, held by the party within his jurisdiction.

It is unnecessary to repeat the descriptions of persons who may happen to be the offenders, which are correspondent to those described in the former case.

In all instances wherein an attachment of property may be ordered under the foregoing rule, the Magistrate, immediately on the attendance of the party for whose appearance it was ordered, shall direct, by a written precept, that the attachment be removed, and that a full and fair account be rendered of all receipts and disbursements during the period of attachment.

The attachment of the lands, in this case, has no reference whatever to the punishment of the offence with which the individual may be charged: its sole purpose is to compel the attendance of the party accused, and there its operation ends. Neither is any particular person specified, during which the non-appearance of the party shall be taken to annul his title to his property, nor is the Magistrate required to declare such property forfeited to Government.

Should the party neglect to attend for a period of six months after the lands have been ordered under attachment, the Magistrate is required to report the case to the Governor in Council, who will pass such order on it, and the future disposal of the lands, as he may judge proper.

But this provision does not necessarily imply the forfeiture of the property, although it may be considered, after the lapse of so many months, to have been abandoned, and it may be deemed expedient that orders should be given for the future disposal of such property. The appearance of the party at any unspecified

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cified period before the Magistrate's report may have been transmitted to the Governor in Council, is sufficient to procure the instant release of his property; and even if his attendance should not be given till after the lapse of a period of six months, it is not to be concluded against him that the delay will not admit of explanation.

The charge is supposed to be preferred by some individual, as charges of a criminal nature generally are; and it may appear on investigation that advantage has been taken of the occasioned absence of the party to fabricate the accusation, and the tale of his concealment. Such a result of the investigation would, of course, lead to the restoration of his property.

This, it must be observed, is the case in which a positive delay of six months is prescribed before making the report to the Governor in Council, whereas there is nothing in the Regulations to prevent a decision being obtained, on the other case, within half that time.

The next instance of a proposed alteration of the existing provisions of the criminal code is noticed in the fourteenth paragraph of the letter from the Commission, in which they state, that " in Sections 17 to 22 inclusive, we have re-" tained, with some modifications, the first five sections of Regulation XIII. " 1809, but no parts of the rest. By this Regulation, if the proclaimed offender " surrender within the limited time, he has all the benefit of a trial; but if he " surrender or is apprehended after the time, it is only necessary that the Judge " should be satisfied of the identity of the prisoner and of his contumacy in not " appearing before, in order to sentence him to be imprisoned and transported " for life. We have given him a regular trial in both cases, because we see no " cause to justify the continuance of so extraordinary and severe a law. We " have entirely rejected the Sections 13 and 14 of the same Regulation, by " which, among other penalties, persons convicted of affording to the pro-" claimed offender lodging, money, grain, or other supplies, are liable to for-" feiture of their estates, because such aid is often furnished from the dread of " assassination, and it is very difficult to ascertain whether the aid has been " given in consequence of this or of any other motive, and because the punish-" ment holds out encouragement to private animosity, to bring forward infor-" mation against persons who may have given money or grain from fear, or " from not knowing of the proclamation."

The foregoing observations do not appear to have been dictated by any consideration of the history of the law in question, or of its operations. But it is unnecessary to go beyond the paragraph itself, for a cause to justify the continuance of the penalty announced for disobedience of the proclamation, which the Commission have termed so " extraordinary and severe a law;" for it must be kept in mind, that the existing law is directed exclusively against persons concerned in gang robbery and murder, the notoriety of whose criminal practices is sufficiently established, to render their apprehension essential to the peace and tranquillity of the district; and that previously to authorizing the issue of the proclamation, " the Foujdarry Adawlut are required to determine whether " the degree of notoriety, and the dangerous character of the person accused, " or the aggravated nature of the offence alleged against him, be such as to " warrant the measures for his apprehension and for his punishment in case of " contumacy." Now, if the character of the offender be such that his threat of assassination shall be sufficient to awe individuals into affording him lodging and furnishing him with supplies, and to form, in the opinion of the Commission, a justification for their so doing, it must be desirable to relieve the country from so grievous a pest; and that law cannot be deemed severe, which requires a person of such dangerous character to appear, and answer to the charges preferred against him, announcing to him that he will be held to be guilty of the crimes so charged against him, if he shall not appear, at the time fixed in the proclamation, to answer to such charges.

The Commission have omitted in their draft the duty imposed on the Foujdarry Adawlut by the existing law, as above quoted; and by taking away from the proclamation the penalty for disobeying it, they have reduced it to something more insignificant than a mere summons published by beat of drum, and affixed to a wall instead of being served on the offender, as in a trivial case. But while

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while they have totally destroyed the efficiency of the instrument in this respect, they have added to it no notification, "that if any person, in his endeavours to apprehend, should wound or slay him (the proclaimed person), in "consequence of his standing on his defence or flying, the person so wounding "or slaying the criminal shall be deemed entirely guiltless with respect to that "act:" and the reason assigned for it in their letter is, that "the provisions "are more likely to become known to the inhabitants in this way, than if they "were inserted in a separate section, as in the rescinded Regulation." The reason may be applicable to a new Regulation, but not to one which has been in operation for more than six years, and the provisions of which must have become known, as legal provisions usually do, in all countries, through the practice of the court.

But if the Regulation were entirely new, the insertion of this provision merely in the body of the proclamation, instead of serving as a protection to individuals in the discharge of their duty, would have the appearance, and in all probability the effect, of a direct encouragement to all persons to resort to any means of destroying the person named in the proclamation: and its insertion in a section of the Regulation would still be necessary, in the same manner as the penalty attendant on a disobedience of the proclamation is inserted in the Regulation.

The arguments urged by the Commission for rescinding Sections 13 and 14 of Regulation XIII. 1809, would form part of the defence of persons called upon to account for their conduct under those sections; and as the penalties provided by them cannot be enforced until each case has undergone consideration by the Foujdarry Adawlut, and by the Governor in Council, there is little danger of their being inflicted on persons who may not be proper objects of such penal enactments.

The latter part of the fourteenth paragraph contains a postulatum on which much might be written; but as it entirely begs the question, with regard to the state of the country previous to 1809, it may be sufficient for the Court to state, for the information of the Right Honourable the Governor in Council, that the judicial courts were not generally and completely in operation until 1807, that the regulation in question is numbered 4 of the Bengal Code for the year 1808, and that it was adopted into the Madras Code in the following year.

With regard to augmenting the authority vested in the Magistrate for granting rewards as far as one hundred rupees, as mentioned in the sixteenth paragraph of the letter from the Commission, the Court concur in their recommendation that it be adopted; and the authorizing Magistrates to remove public officers from one station to another, without reference to any other authority, as stated in the seventeenth paragraph, may, in the hands of an active and intelligent officer, contribute to the efficiency of the police. Indeed, the efficient administration of police must always be greatly dependent on personal character. It is a department which cannot be strictly controuled by Regulation, and will therefore be ever liable to great abuse; but this is a necessary evil, which it will be the duty of the European officers to endeavour to circumscribe within the narrowest limits possible, for they cannot remove it altogether.

The Court have not extended their remarks to the Regulations by which "offences against the revenue laws of customs, the tobacco monopoly, and spi- "rit licenses, are rendered criminal," which the Commission state to be left untouched, but of which, it must be observed, the character has been totally altered, by transferring them to the cognizance of the Collector: and this appears to the Court to be done in direct opposition to the expressed intentions of the Honourable Court of Directors, who, in the eighteenth paragraph of their letter dated the 20th December 1815, declare, that "it is not their intention "to give to Collectors a power of deciding upon complaints which may be pre- "ferred either against themselves or the native officers of revenue subject to "them respectively."

In all complaints made under the laws in question against the officers employed in the several departments, the Collector is interested as their immediate master; and in all complaints against individuals for infringing those laws he has an interest, on account of the revenue derived from those sources: for

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for allowing that he derives no personal emolument from them, his reputation as a revenue officer is concerned in maintaining the standard of his collection, which is liable to be injured by every fraud.

With regard to the Regulation for the office of criminal Judge, the Court have already remarked on the inexpediency of assigning to established offices appellations indicative of a change in such office, which has not taken place, or of an addition of authority which has not been conferred on it.

The employment of the zillah Judge in the discharge of duties in the criminal department is not altogether consistent with the instructions conveyed in the sixteenth paragraph of the Honourable Court's letter, dated the 20th December 1815, and the Court consider the proposed arrangement to be objectionable, as it imposes on the Judge *a part of the duties of the magistracy*, without leaving him the powers of a Magistrate. It renders him liable to have his attention daily called to the cases of persons who may be forwarded to him by the Collector, after perhaps but a defective preliminary inquiry, or to those of persons forwarded by a police officer, whose proceedings, it is to be expected, will be still more defective, but over whom he cannot even issue letters of instruction.

If it be necessary, as well to continue the assistance at present afforded by the Magistrate in diminishing the duties of the circuit, as to afford relief to the Collector in the discharge of the duties of Magistrate (which the Court have no doubt will be found to be very necessary), it would, in the opinion of the Court, be better to make the zillah Judge, in fact, what the new appellation given to him by the Commission designates him to be, a Judge of sessions, holding sittings for the cognizance of particular offences, and passing judgment on the cases of the persons charged with such offences. His sittings might be held monthly, commencing on a particular day of the first week of the month, and continuing until the business of the session should be gone through; and he might be aided in the discharge of this duty by the law officers of the station. A court so constituted, under the name of the Magistrate's court (for a new name is unnecessary), might be very serviceable in the criminal department, without materially occupying the time of the zillah Judge.

To avoid the collision which, it appears to be apprehended, may arise between the two authorities residing in the same zillah, all official correspondence between the authorities which the Court would distinguish by the titles of "Magistrate," and "Police Magistrate" of the zillah, might be prohibited; and if the proceedings of the Police Magistrate, on whose commitments the offenders would be brought to trial, should in any instance appear to be irregular and to require correction, it might be made the duty of the Magistrate to bring the case to the notice of the Judge on circuit for his information and orders, and those orders might be conveyed direct to the Police Magistrate.

Under such an arrangement, the necessity for the prosecutors and witnesses proceeding twice to the zillah station would be obviated, the proceedings of the police officers would, in every instance, come under the notice of their superiors, and it is to be expected that they would, in consequence, pay greater attention to regularity.

With regard to the powers to be intrusted to the Magistrate, they must be sufficient to enable him to accomplish the purposes of the Act, 53d George III., in regard to European British subjects; but he may be restricted from inquiring into the details of police, the administration of which will be vested in the Collector.

The foregoing sketch may be sufficient to shew the principles on which, in the opinion of the Court, a preferable arrangement may be formed to that which has been proposed by the Commission. It would not be practicable to complete the details in the time within which the Right Honourable the Governor in Council has expressed his desire to receive the proceedings of the Court on the drafts prepared by the Commission.

Almost

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Almost the only remark which the Commission appear to have considered necessary, in explanation of the draft of the Regulation for the criminal Judge, is contained in the following words. "We have made all the reports quarterly "which before were monthly, because the same object of proper control may "be obtained, and time and labour saved by this arrangement." Whatever application this observation may have to the other reports, it has none to that of prisoners apprehended in each month, of which it is desirable that the earliest information should be conveyed to the superior court, or the report of casualties and of prisoners released in each month. If the quarterly reports are to be in substance the same as those at present received monthly (and the forms are copied verbatim from the forms printed in Regulation VI of 1802), the information contained in the proposed quarterly reports of these cases will contain the precise information at present contained in the reports furnished monthly. The labour saved to the writer, therefore, will be that of the heads or titles of each report; and to the judicial officer, that of affixing his signature thereto. The Court would, therefore, recommend that these reports, at least, be continued monthly: the others are not of so much consequence.

It is proper to remark on a part of the proposed Regulation for the Magistrate which is not explained in the letter, that while it is provided by Section 31 that the court of circuit shall report to the Foujdarry Adawlut, and the Foujdarry Adawlut to Government, any instance in which the Magistrates or their assistants may be guilty of misconduct or neglect in the discharge of their official duties, this very proper provision is rendered useless by that contained in Section 42, which declares it to be unnecessary for the Magistrates to make the depositions taken by them, in the cases referred to, matters of record, and requires only a registry of dates, names, and the quantum of punishment inflicted in each case, affording no information beyond the result of the Magistrate's proceedings, none whatever of the nature of such proceedings, and this document the Magistrate is to cause to be delivered to the court of circuit. It is supposed that he will be too much engaged in other duties to deliver it in person, and that it will be dangerous to bring him so nearly in contact with the superior court: how then is the court of circuit to discharge the duty required of it?

By these provisions, the administration of justice, so far as the Collectors are concerned, is made a secondary duty; and the almost total exemption from control, which is herein provided for them, may lead to negligence in the discharge of functions which appear to be thought so unimportant.

The Honourable Court of Directors cannot be supposed to have been aware, that this would be a necessary consequence of employing the Collectors in the discharge of the duties of Magistrate.

In concluding these observations, which have been hastily thrown together, in order that the strictest obedience might be paid to the orders of the Right Honourable the Governor in Council, that their report should be made within fifteen days, the Court beg leave to state, that although they have given to the subject all the consideration which the shortness of the period allowed them admitted, and have endeavoured to perform the duty which the Right Honourable the Governor in Council has been pleased to confide to them in the best manner, yet it is to be apprehended that, in the cursory view which they have been enabled to take of the drafts, and of the letter of explanation which accompanied them, something may be found to have been omitted, which on more mature consideration might be supplied. But, from what the Court have stated, it will be clearly understood, that they deem the drafts to be defective in principle; and considering the importance of the subject, they doubt not that the Right Honourable the Governor in Council will deem it proper to have before him all the information that has been received from the Judicial Authorities, previously to forming a final determination regarding it.

The Court were desirous of submitting the information which has been furnished by the several Judicial Authorities on the points referred for their opinion, along with these observations, but the commands of the Government requiring that all their attention should be given to the drafts framed by the Commission, in order that the reports on them might be completed within the prescribed time, occasioned the suspension of their proceedings on the reports

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connected with the important subjects under discussion, which are properly the duty of the Court.

Ordered, That extract of these proceedings be sent to the Secretary to Government in the Judicial department, for the purpose of being laid before the Right Honourable the Governor in Council.

JUDICIAL COMMISSIONERS *to* SECRETARY *to* GOVERNMENT, *Dated 29th August* 1816.

To the Chief Secretary to the Government of Fort St. George.

SIR:

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1. We had the honour to receive, on the 13th instant, Mr. Secretary Hill's letter of the 7th instant, together with an extract from the proceedings of the Sudder Adawlut on the drafts of Regulations submitted to the Right Honourable the Governor in Council, with our report of the 25th June.

2. As the Sudder Foujdarry Adawlut observe, that the period within which they were required to make their report on these drafts " is too limited to " admit of a revision of their several provisions in detail," we have made the revision ourselves; but before we enter into any detail of the changes which have resulted from it, we shall endeavour to answer the objections made to the drafts, on account of their having observed in them " deviations from the " orders of the Honourable Court of Directors, and alterations of the existing " Regulations, comprising very material departures from the principles on " which they are framed."

3. The Sudder Adawlut remark, that the orders of the Honourable Court of Directors are positive for the transfer of the duties of Magistrate to the Collectors, " so as that the zillah Judges may be enabled to give their whole " time to the administration of civil justice;" instead of which the Commission have made them, under the title of the criminal Judge of the zillah, the committing Magistrates in all cases triable by the Court of Circuit. We have already, in our former report of the 25th June, given our reasons for making this division of authority, in place of leaving to the criminal Judge a concurrent magisterial jurisdiction, as authorized by the Court of Directors.

4. The Sudder Adawlut observe, that the revenue duties of Collector would be but little interrupted by the commitment of offenders for trial, and " that " an attendance on the court of circuit twice in the year would not extend " to any considerable occupation of the Collector's time." It is not the mere act of committing prisoners for trial, but the preparation of papers, that takes up time. The convenience of the people has also had some weight with us in favour of the proposed arrangement. Prisoners and witnesses will now be sent direct to the zillah station by the district police officers; whereas if the Collector, as Magistrate, committed, the witnesses and prisoners would in all cases punishable by the criminal Judge, have to make two journeys instead of one, first to the Magistrate and then to the criminal Judge. An attendance on the court of circuit might bring the Collector from a distant part of the district: his other business, both of revenue and police, would in the mean time be interrupted, and after obtaining leave from the circuit Judge he would have to return to the spot from which he came. This repeated every six months, would probably occupy six weeks or two months in the year: a space of time much too long to be sacrificed, in a great degree, to mere form.

5. The Sudder Adawlut seem to apprehend, that the revenue administration being the primary, and that of justice the secondary duty of the office, a Collector may neglect his judicial duties. To this it may be answered, that revenue is not made his primary duty; but where two duties are to be performed, both must be attended to. Revenue must give way to the duties of the Magistrate in all essential matters, but it must not be neglected for points of form. If the Collector is interested in the realization of the revenue, he is, for the same reason, interested in the good order of the country. No public officer is so much so as him, and he is therefore as little likely as any other to neglect the magisterial duties, on which it so much depends.

6. In

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6. In the draft of the Magistrate Regulation it is provided, that in the examination of prisoners charged with heinous offences, previous to their being forwarded to the criminal Judge, " it shall not be necessary for the Magistrate " to go further into the examination, than to satisfy his own mind that there " is ground to believe the prisoner guilty of the crime charged against him." The Sudder court observe, that " the introduction of this duty by a negative, " may lead to different interpretations as to the sufficiency of the ground on " which the Magistrate is at liberty to found his belief of the guilt of the ac- " cused." They do not seem to have recollected, that the examinations before the Magistrate are on oath, and that, therefore, there can be no greater latitude for different interpretations, " as to the sufficiency of the ground," than there is under the existing Regulation, which directs the prisoner to be committed when there is ground to suspect him " of having been concerned " in the crime charged against him." * They remark, that if the belief on which the Magistrate is to forward the accused to the criminal Judge be the result of a grave proceeding, sufficient to warrant the commitment of the prisoner for trial, all that is left to be done is to make out the mittimus of the prisoner, to record the names and residence of his witnesses, and to take recognizances from the prosecutor and his witnesses. But this enumeration is far from comprising all that the Magistrate would have to do. He would have to translate the papers into Persian, under Section 16, Regulation VI. 1802; and into English, under the orders of the Sudder Foujdarry Adawlut of the 25th October 1806: to prepare the calendars for the court of circuit, to send out the summonses to the prosecutors and witnesses, to attend that court, and to examine every prisoner himself, instead of letting him be forwarded direct to the criminal Judge by the Tehsildar.

7. The Sudder court seem to imagine, that the criminal Judge is made, in every case, to repeat a duty already performed by the Magistrate, and that relief is hence afforded to the Magistrate " in appearance, rather than in " reality." This, however, is a mistake; because all cases cognizable by the criminal Judge will be sent to him direct by the Tehsildars, as is now done by the police Darogahs, † and such cases only as have been preferred to the Magistrate in the first instance, and which he cannot punish, will be sent by him to the criminal Judge. The Sudder court suppose that the prosecutor in most, and the witnesses for the prosecution in all cases, would have to make three journeys to attend different tribunals. By the arrangement proposed by the Commission, this never can happen. The witnesses will, in no case, attend more than twice, and in many only once; but if all commitments for trial were to be made by the Magistrate, the witnesses would be obliged, in every instance, to attend twice, and very often three times. They would first be sent for examination by the police officer to the Collector, acting as Magistrate. If the Collector could not punish himself, he would forward the witnesses and prisoner to the criminal Judge; and where he committed for trial by the court of circuit, the witnesses would have to attend a third time. To save the time of the criminal Judge and the Magistrate is no doubt desirable; but it is of much less importance than the convenience of the people.

The Sudder Adawlut observe, " that if the preliminary proceedings of this " Magistrate should not be conducted with sufficient care, which it is reason- " able to apprehend may happen, when no responsibility is incurred by defec- " tive proceedings, it may be necessary for the criminal Judge to call before " and examine other witnesses, and delay may thus be occasioned." The same thing happens now, if the Darogah's proceedings are not carefully drawn up: and the same thing would happen if the Magistrate committed when the Tehsildar's proceedings were defective. But the Magistrate is not, as supposed by the Sudder Adawlut, exempt from responsibility for defective proceedings. His proceedings, in all cases forwarded by him for examination by the criminal Judge, may be produced by that officer, when called for by the Judge of circuit.

9. The Sudder Adawlut think that " a due regard for the preservation of " the outward forms of respect, which the Government have been pleased to " direct that the Magistrates shall pay to the courts of circuit," require that the

* Section 5, Regulation VI., 1802. † Section 27, draft C.

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the duty of attending the court of circuit and delivering the calendars should be transferred to the Collector, with the other duties of the Magistrate's office. An attention to those forms is very proper, where it can be paid without incurring serious inconvenience. It does not move the criminal Judge from his station, and he can, therefore, without any difficulty, still continue to observe all the necessary forms of respect, by going out with the principal inhabitants to meet the court of circuit on its approach to his station, and continuing in attendance during its stay. But we have already stated our objections against the Collectors' being required to attend: his observance of this form might frequently leave the whole business of the province at a stand, and we see no adequate object to justify the submitting to so great an inconvenience.

10. In considering the transfer of the duties of Magistrate to the Collector, the Court remark that it is impossible entirely to overlook "the distresses to "which the poorer classes may be subject, in pursuing the motions of a "wandering tribunal, or not to contemplate the probability of a future ar-"rangement, not very distant perhaps, for declaring that the office for receiv-"ing and hearing complaints of personal injuries and outrage shall be held at "a known fixed station."

We are so far from thinking that the inability of this tribunal will distress the poor, that we think, on the contrary, that this very quality will render it most useful to them. It is the fixing of this office in one place which has hindered complaints from reaching it, which has prevented the Magistrate from making local inquiries into abuses, and which has, in consequence, rendered it so inefficient. It is proper that the court for the trial of all important civil suits should be fixed; but for the hearing of complaints of personal injuries, the court must be moveable. While the state of society and the character of the people of India remain what they are, no stationary tribunal can be of much use in this respect. It is only by going round the country, and visiting every part of it, that the Magistrate can ever learn one-tenth part of the injuries which the inhabitants suffer from police officers and other subordinate agents, or the wrongs to which the poor are subjected by their more powerful neighbours. A travelling tribunal is so far from being a hardship to the poor, that it is only by its coming among them that their grievances are discovered, and that they have an opportunity of seeking redress. Were the tribunal fixed, most of them would be prevented by poverty or ignorance, or deterred by fear, from quitting their homes in order to complain. To render the Magistrate stationary, and at the same time to expect him to protect the inhabitants from outrage, would be to expect from him what no man in his situation could possibly perform. It would not be difficult to bring proof that even the most vigilant Magistrates have not, in such circumstances, been able to exercise any efficient control. With respect to heinous crimes and offences, the moveable nature of the Magistrate's tribunal will make no change in the mode of investigating them, as the prosecutors and witnesses will, as formerly, be sent direct to the zillah station by the Tehsildars.

11. The measures under consideration are said by the Sudder court "to in-"clude so obvious a defect, that they may be regarded as merely preliminary "to some more permanent arrangement." With regard to the opinion here advanced, that these measures are intended only as an experiment, we see nothing to support it in the dispatch of the Court of Directors.

12. The Sudder court object to the title of criminal Judge being given to the zillah Judge, and of zillah Magistrate to the Collector. Arguing upon the assumption, that the proposed modifications of the law are merely temporary, they recommend to assign "new names to the new offices created in the course "of experiment, rather than to strip an existing office of its known designa-"tion, and give to it an appellation indicative of a change which has not "taken place in the authority vested in the office." A very great change has taken place in the authority vested in the office for the charge of the police; the maintenance of the peace of the country, and almost all the duties of the Magistrate, have been transferred to the Collector, and we think it necessary that the official designation should be transferred with the duties. That part of the magisterial duties formerly exercised by the zillah Judge, which now remains

to

to him, is a very small one; and as it is purely of a criminal nature, namely, the punishment and commitment of criminals for trial, we conceive that the appellation of criminal Judge is much more appropriate to his office, than that of zillah magistrate.

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13. The Sudder Adawlut doubt the legality of giving to the Magistrate the cognizance of complaints against European British subjects, referred to in the Act of the 53d George III, cap. 155, clauses 105 and 106. They observe, that the fixed resident Magistrate, and not "the travelling office of the Collector, is the authority contemplated by the Legislature in framing the Act." We see nothing in the Act to justify the inference, that the Legislature considered it necessary that the Magistrate should be stationary: all that the Act requires is, that the Magistrate shall be a justice of the peace, but it is entirely silent as to his being stationary or not.

14. In the drafts submitted by the Commission with their report of the 25th June, the cases of resistance to process were made referable directly to the Governor in Council, which by Section 2 and 3, Regulation I. 1810, are required to be reported to the Foujdary Adawlut in the first instance.

That Court have objected at considerable length against the proposed alteration. They affirm, that the reference to the Sudder court will never take more than three months. Though we imagine that the records will shew that it has always taken longer, yet as the case is one of very rare occurrence, the inconvenience will be of the less consequence; and as it is our wish to avoid alterations in the existing laws without strong grounds, we have restored the original sections in the drafts now submitted.

15. In our former drafts, in modifying the provisions of Regulation XIII. 1809, we proposed to make known to the people that persons slaying the proclaimed offender in endeavouring to apprehend him would be held guiltless, by inserting this provision in the proclamation. The Sudder Adawlut, among other objections to this plan, state that the Regulation having been in operation for more than six years, the provisions of it "must have become known, as "legal provisions usually do in all countries, through the practice of the "courts." Though the Regulation has certainly been published above six years, we doubt if it be known to more than a very few natives in public employment, or connected with Europeans. It is certainly not known to one in a hundred of the population, and most probably not to one of those who are most likely to apprehend the offender, namely, Talliars, wood-cutters, and other labourers, in remote villages among the hills and jungles. Such men neither read nor know any thing of Regulations, and it is only by beat of tom tom that they can ever hear of them. It is feared by the Court, that the proclamation might have the effect of a direct encouragement to all persons to resort to any means of destroying the person named in it. There does not appear to be any cause why a person in pursuit of a proclaimed offender should be more likely "to resort to any means of destroying him," from knowing by a proclamation that he shall be deemed guiltless of that act, than from knowing the same thing by a section of a Regulation; but supposing that the consequence apprehended by the Court were to ensure merely the encouraging the destruction of the offender, this consequence could hardly follow, without rendering the offender more likely to surrender, from the additional danger to which his life would be exposed from his pursuers. If such effects are to be produced by the proclamation, it can scarcely be maintained that the "instrument" which encourages the destruction of "so grievous a pest, from whom "it must be desirable to relieve the country," and which likewise operates in inducing him to do what he has never yet done (to give himself up) has been deprived of its efficiency. But these are not the effects to which the Commission looked: all that they had in view was to make known to the class of men most likely to engage in the pursuit of the offender, by a proclamation, what there was no chance of their learning from a section of a Regulation, that they would be deemed guiltless of slaying the offender if he stood on his defence.

16. We have made these remarks chiefly for the purpose of stating our opinion, that the Regulations, even after having been in operation for several years, do not become so generally known as seems to be supposed by the Sudder

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Adawlut; for, with regard to the Regulation in question, we have inserted no part of it in the present drafts, and have allowed it to stand in its original form, because we now think it ought to be rescinded altogether. This measure has been recommended by the First Judge of the Provincial Court of the centre division, on the grounds of the difficulty of obtaining sufficient evidence of the proclamation having been heard by the person to whom it has been addressed, of no person ever yet having surrendered under it, and of its being totally inefficient. This statement is supported by the minute of Mr. Stratton of the 29th July, in which it is shewn, that of one hundred and three proclaimed offenders not one has surrendered. The Regulation was passed in Bengal at a time when gang robbery had reached an alarming height: it was adopted here in 1809, when the number of banditti, so far from having increased, was every day diminishing. The gradual extension of our influence in the territories of our allies, makes it every day more easy to apprehend notorious robbers, because they do not find the same secure refuge in these countries as formerly; the local authorities sometimes facilitating their apprehension, and sometimes themselves seizing and giving them up.

17. We stated, in our last report, that we had left untouched the Regulations in the case connected with offences against the revenue. The Sudder Adawlut, though they do not say that we have touched them, assert that their "character has been totally altered, by transferring them to the cognizance of the "Collector." These duties of the Magistrate are transferred with the office to the Collector, by the orders of the Honourable Court of Directors, who no doubt considered that if the character of the Regulation in question were even in any degree changed, the inconvenience, whatever it might be, would be outweighed by the advantages of the measure. It is supposed, that the interests of the revenue may influence the Collector in his duties as Magistrate; but if the Regulations be examined, it will be found that the Collector, in the cases cognizable by him, has no particular interest to bias his decisions, and that their character is only so far changed as to render them more operative than formerly.

18. The transfer of these duties* to the Collector appears, however, to the Sudder Adawlut to be done in direct opposition to the expressed intentions of the Honourable Court of Directors, who, in the eighteenth paragraph of their letter dated the 20th of December 1815, declare, "that it is not their intention to give to Collectors a power of deciding upon complaints which may be "preferred either against themselves or the native officers of revenue subject to "them respectively." The Sudder Court, by bringing forward a paragraph entirely unconnected with the subject, have endeavoured to make it appear that the Court of Directors did not authorize the transfer; but, in the paragraph alluded to, the Honourable Court are delivering their sentiments on a subject totally different. They are speaking of a proposition which had been made by the late Collector of the southern division of Arcot, "for empowering Collectors to hear and determine disputes between Zemindars or renters and the "Ryots, respecting revenue collections." Their intention is obviously, that though the Collector should determine questions of revenue collections between Zemindar and Ryot, he should not determine such questions between the Zemindar or Ryot and himself or servants: but they have no reference whatever to the cases in which the Collector, as Magistrate, takes cognizance of frauds in the customs, of smuggling, of selling spirits without licenses, or of acts of extortion or oppression committed by his own servants.

19. It is concluded by the Sudder Adawlut, that the Collector is an interested party in all offences against the revenue laws, because "in all complaints made under the laws in question against the officers employed in the "several departments, the Collector is interested as their immediate superior: "and in all complaints against individuals for infringing those laws he has an "interest, on account of the revenue derived from those sources; for allowing "that he derives no personal emolument from them, his reputation as a revenue officer is concerned in maintaining the standard of his collections, which "is liable to be injured by every fraud." The Sudder Court seem to be aware, that the Collector can derive no emolument from the exercise of his authority as Magistrate. If he is not to punish offences against the revenue where he has

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has no personal interest, and merely because his reputation is concerned in maintaining the standard of his collections, it might, on the same principle, be said, that the present zillah Magistrate ought not to punish offences against good order, because his reputation is concerned in maintaining the peace of the country. But the Collector, as Magistrate, has not authority to punish those offences which can affect the standard of the revenue, for smuggling, the only offence by which it can be affected in any sensible degree, is not punishable by him. A short statement of the offences against the revenue which are cognizable by him will shew how little ground there is for apprehending that he can have any particular interest at all likely to influence his decisions upon them.

20. There are seven Revenue Regulations* under which the Collector will exercise, in a greater or lesser degree, the powers of Magistrate. Two of these Regulations are for salt, two for tobacco, and the three others for spirits and customs. By the salt and tobacco Regulations, all fines are ordered by the Judge, and all confiscations by the Board of Revenue: the Magistrate has no authority in either case. By the custom Regulation, all confiscations of goods are made by the Board of Revenue. By Section 21, Regulation I. and Section 16, Regulation III. 1812, the Collector, as Magistrate, has authority to fine persons convicted of defrauding the customs, in a sum not exceeding a hundred rupees to the use of Government; but the Collector has no interest in such fines, neither is he the prosecutor. The police officer, or other person who gives the information in the hope of a reward, or the fair dealer who suffers from the fraudulent one evading the customs, is the prosecutor. The Judicial code gives to the Magistrate the cognizance of the frauds against the customs specified in these sections, and we therefore continued it to him in our former draft; but in our present one we have transferred it to the criminal Judge, because we think it may be done without diminishing the efficiency of the law. By the spirituous liquor Regulation, the Collector, as Magistrate, has authority to levy fines for every breach of the law; but he can hardly in any case be the prosecutor himself. If the offence be either selling without a license or selling beyond the limit of the license, the prosecutor will be the license holder who suffers by the fraud. So many disorders arise from the illicit sale of spirits, both among the troops and the inhabitants, that it is absolutely necessary that the Collector should have authority to punish every offence against the Regulation now cognizable by the Magistrate, with the exception of those committed by the distiller of spirits for exportation, being an European, or the descendant of an European; which, in our present draft, are transferred to the jurisdiction of criminal Judge.† When the offence is of a higher nature, such as mixing noxious ingredients in the spirits for sale, it is punishable by the court of circuit, not by the Magistrate.‡

21. The revenue from the sale of spirits is drawn by the Collector from a few principal renters. This last class is generally composed of palankeen-bearers, peons, and the lower orders of the people: their rents individually are very trifling, and few of them have property to the value of a hundred rupees. It is against them that complaints are most frequent, for selling clandestinely, within each other's limits, to travellers, camp-followers, or troops: a fine of four or five rupees is usually a sufficient punishment. To make such matters cognizable by the zillah Judge, instead of the Collector, as Magistrate, would be to render the law nugatory. The control of them is properly the business of the police, and it seems to have been so considered by the Judicial code, as the preamble to the Regulation declares, as the ground of its enactment, "the "immoderate use of country arrack, and other spirituous liquors, being equally "prejudicial to the health and morals of the people."

22. The Commission have left the power of punishment with the Collector, as Magistrate, where it appeared necessary: they could not otherwise have fulfilled the intentions of the Court of Directors, in transferring the duty of Magistrate.

* Regulation I. 1805, and II. 1807, salt; I. 1808, spirits; VII. and VIII. 1811, tobacco; I. and III. 1812, customs.

† Section 2, Regulation I. 1808. ‡ Clause third, Section 13, ditto.

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gistrate. They have no where altered the law in order to increase his authority; but they have, in several instances, altered it, for the purpose of diminishing the powers which he must have exercised, had the complete transfer been made, when they thought that this could be done without material inconvenience.

23. The Sudder Adawlut suggest, that the zillah Judge should, in plaçe of criminal Jndge, be constituted a Judge of sessions, whose " sittings might be " held monthly, commencing on a particular day of the first week of the " month, and continuing until the business of the session should be gone " through." By this arrangement, the Judge could only hear chárges when the sessions came round, whereas, at present, he may hear them on any day he is at leisure. It might frequently happen, that a criminal case would come before him at a time when there was no civil court business, yet he would be obliged to postpone it until the regular sessions day.

24. It is observed by the Sudder Adawlut, " that while it is provided by " Section 31, that the Court of Circuit shall report to the Foujdary Adawlut, " and the Foujdary Adawlut to Government, any instance in which the Ma- " gistrates or their assistants may be guilty of misconduct or neglect in the " discharge of their official duties, this very proper provision is rendered use- " less by that contained in Section 42, which declares it to be unnecessary for " the Magistrates to make the depositions taken by them, in the cases referred " to, matter of record." It may be inferred from this observation, that the Magistrate is absolved from keeping any record at all, whereas he is required in all cases, except petty offences, to keep a record of his proceedings. The Sudder Court ask, " How then is the Court of Circuit to discharge the duty re- " quired of it?" To this it may be answered, that in the higher offences there was a record; and that in the petty offences, when there was none, the Court of Circuit was open to all complaints against the Magistrate for misconduct. But, in order to remove all objection on this head, the Magistrate, in the draft now submitted, is required to keep a record in every case of petty offence, where the punishment ordered may exceed a fine of five rupees or two day's imprisonment.

25. In continuing their remarks on the want of a record in petty offences, the Sudder Court observe, " that the administration of justice, so far as the " Collectors are concerned, is made a secondary duty; and the almost total " exemption from control, which is herein provided for them, may lead to " negligence, in the discharge of functions which appear to be thought so " unimportant." We are of opinion, that every control over the Collector, as Magistrate, is given, that can be necessary for any useful purpose. There are many petty offences, so trifling in themselves, that they ought not even to reach the Magistrate, but to be settled on the spot. To make such things matter of record, and to expect the Judge of circuit to enter into a grave consideration of them, would be to divert his time, and that of the Magistrate, from duties of real importance, and to waste it unprofitably, the one in recording, and the other in controlling what was utterly undeserving of notice.

26. In preparing the drafts submitted with our letter of the 25th June, we considered ourselves as authorized to suggest improvements on the code, under the original instructions to the First Commissioner, since sanctioned by the Honourable Court of Directors, in their letter of the 20th December 1815. The rules for the duty of the Magistrate being scattered throughout two large volumes, we thought it necessary to collect them into one Regulation, and to rescind others; and, in so doing, we have only followed the principle previously adopted by Government, with respect to Regulation I. 1812, by which one complete Regulation and six sections were rescinded; and also with regard to the District Moonsiff and Sudder Aumeen Regulations, by which two Regulations and fifteen sections were rescinded. Indeed, we found, upon an attentive examination of the code, that the respective duties of the Magistrate and the criminal Judge could not be clearly defined by a few additional sections referring to existing Regulations, and that confusion could be obviated only by collecting and comprising their several duties in two distinct Regulations.

27. The

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27. The Sudder Adawlut not having corrected our drafts, we have ourselves made such corrections as were suggested by a careful revision of them and by the remarks of that court. We have thrown the different reports, calendars, and forms of warrant, &c. we formerly entered in the body of the Regulations, into the appendixes, and we have changed the arrangement of some of the sections, where it was thought necessary for greater clearness or connexion. We have left out every thing respecting proclaimed offenders, because we are of opinion, for the reasons stated in the preceding part of this report, that the Regulation concerning them should be repealed. We have restored Sections 2 and 3. Regulation I. 1810, by which the Magistrate is to report to the Foujdary Adawlut in the case of resistance to process. We have made it the duty of the Magistrate to furnish the Judge of circuit with a calendar of petty offences and thefts, and a record of them when the punishment exceeds a fine of five rupees or two days' imprisonment: where the punishment is less, we deem the offence too trivial to require a record.

28. The cognizance of the breach of Section 2, Regulation I. 1808, by the distiller being an European or the descendant of an European, is transferred to the criminal Judge; because, as there are very few districts in which there is such a distiller, the offence will rarely occur, and may without any inconvenience be taken from the jurisdiction of the Magistrate. The frauds against the customs, specified in Section 21, Regulation I, and Section 16, Regulation III. 1812, are transferred to the cognizance of the criminal Judge, for the reasons already assigned.

29. The sections of the Act of the 53d Geo. III, relative to complaints against European British Subjects, have been left out, because we think that it will be better to publish the words of the Act in a separate Regulation. As the Sudder Adawlut have expressed a doubt, whether the Collector, as Magistrate, is the authority contemplated by the Act, and whether the Act is now applicable to that of the criminal Judge, though we have no doubt that it is so to both, we beg leave to recommend that the opinion of the Company's law officer be taken, as to whether it be applicable to the office of the Magistrate or of the criminal Judge, or to that of both, under the proposed Regulations, which require both the Magistrate and criminal Judge to take the oaths of Justice of the peace.

30. Should the Right Honourable the Governor in Council concur in our opinion, that Regulation XIII, 1809, and Section 9, Regulation VI, 1811, respecting proclaimed offenders, be rescinded, it will be necessary to include them in Section 2 of the draft of Regulation A, as rescinded, previous to passing the Regulations.

31. It appears, from the proceedings of the Sudder Adawlut, that they think it would be a preferable arrangement to that proposed by the Commission, to constitute the Collector Police Magistrate, and to leave to the Judge the office of Zillah Magistrate. This outline of their plan is so much at variance with what we conceive to be the intentions of the Honourable Court of Directors, that we deem it quite unnecessary to wait for its details, and we therefore beg eave to recommend, that the drafts now submitted by us be passed without urther delay.

We have the honour to be, Sir,
Your most obedient humble servants,

Madras,
29th August 1816.

(Signed) THOS. MUNRO,
First Commissioner.
GEO. STRATTON,
Second Commissioner.

JUDICIAL COMMISSIONERS *to* SECRETARY *to* GOVERNMENT, *Dated 4th September* 1816.

To the Chief Secretary to the Government of Fort St. George.

Report of Judicial Commissioners, 4 Sept. 1816.

SIR:

In conformity to the resolutions of Government, dated the 25th May 1816, we have, as directed by the Honourable Court of Directors, in the 17th

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17th paragraph of their letter in the Judicial department, under date the 20th December 1815, incorporated in the Boundary Dispute Regulation provisions authorizing the Collector to settle "all disputes respecting the occupying, cul- "tivating, and irrigating of land, which may arise between the renters and "their Ryots." The words of the Honourable Court are, "authorizing the "Collector, in the first instance, to hear and determine:" but as these words are used in referring to a recommendation of the Board of Revenue to that effect, and as the provisions are ordered by the Honourable Court to be incorporated in a Regulation which requires the Collector to settle disputes by the verdict of a punchayet, we conceive it to have been the intention of the Honourable Court that the disputes respecting the occupying, cultivating, and irrigating of land should be settled by the same rule; we have, therefore, provided in the draft of the Regulation now submitted by us, that the Collector shall determine the above disputes regarding the occupancy, &c. of land, as well as those respecting boundaries, upon the previous verdict of a punchayet.

The Collector, by the original draft, was authorized to annul the decision of a punchayet on proof of gross partiality; but the provisions of the Regulation being now extended to other cases beside boundary disputes, we have thought it advisable to withdraw this power from him, and to allow the decision of a punchayet to be annulled only by the provincial court of appeal, under the rules already sanctioned by Government in Regulations V and VII, 1816.

We beg to recommend that the draft now submitted be passed without delay.

We have the honour to be,
Sir,
Your most obedient servants,

Madras,
4th September 1816.

(Signed) THOS. MUNRO,
First Commsssioner.

GEO. STRATTON,
Second Commissioner.

MINUTES *of* COUNCIL,

Dated the 13th September 1816.

Minutes of Council, 13 Sept. 1816.

Read the following letters from the Commissioners for the revision of the Judicial system, with the drafts of Regulations marked A, B, C, and the Boundary Dispute Regulation which accompanied them.

(Here enter).

The President records the following minute:

(Here enter).

Mr. Fullerton and Mr. Alexander object to some of the provisions of the proposed Regulations, and will state the grounds of their objections in minutes which they intend to record.

The Regulations as now proposed by the Commissioners, with the alterations made in those marked A, B, and C, since they were referred, respectively, to the Sudder Adawlut and Board of Revenue, are passed by the Board.

The President records the following minute:

(Here enter).

Approved, and ordered accordingly, Mr. Fullerton and Mr. Alexander intending to state their objections in separate minutes. The necessary instructions will be furnished to the Commissioners and to the Inspector of the Government press.

(A true extract.)

D. HILL,
Secretary to Government.

MINUTE *of the* PRESIDENT,
Dated the 13th September 1816.

I SUBMIT to the Board two letters from the Commissioners for the revisal of the Judicial system, dated the 29th of August and 4th instant, together with a draft of the Regulations framed by them and forwarded with those letters, and I recommend that these Regulations may be now passed.

Minute of the President, 13 Sept. 1816.

(Signed) H. ELLIOT.

Fort St. George, 13th September 1816.

MINUTE *of* ROBERT FULLERTON, Esq.
Dated the 13th September 1816.

Par. 1. IN the minutes * which I had the honour to record, under date 8th March 1816, I stated my opinion of the transfer of magisterial powers to Collectors. I there pointed out what I conceived to be the advantages of uniting revenue and police functions, and what appeared to me the objections to a further transfer of magisterial powers. Those minutes were written under the impression that the intention of the Honourable Court went no further than the suggestion of the Police Committee of 1806, for the transference of the police department alone.

Minute of Mr. Fullerton, 13 Sept. 1816.

2. However much I must lament that the sentiments I had previously recorded should have proved at variance with the orders and opinions since received from superior authority, I cannot conscientiously recall them. Intermediate reflection, and the consideration of various public documents since received, have added strength to the belief, that the whole and sole magisterial authority of the district, vested in the Collector, much of which must be delegated to native revenue officers, uncontrolled except by the occasional visits of the Judge of circuit, will establish a degree of power in the Revenue department, against the abuse of which no legal appeal can effectually be made.

3. That system is certainly the safest which trusts least to individual qualifications. By vesting so much authority in one person, we incur the risk of extending to the magisterial all the confusion, irregularity, and oppression, that have been found to accompany the slightest relaxation of European control on the Revenue department; and by uniting revenue and judicial powers, we lose the check of the one over the other, and multiply ten-fold the means of abuse which under such circumstances must arise.

4. The total transfer being now, however, positively ordered, it becomes our duty to carry it into execution. Nor would it be proper to urge further objections against it, with any view of opposing delay to its completion; nor is such necessary, with a view to future deliberation by superior authorities, as all those objections will be found amply detailed in the letters received from the subordinate courts, and referred to in paragraphs 97 to 127 of the Sudder Court's proceedings of the 15th August 1816. The measure having then been determined on, the mode of carrying it into execution becomes the only legitimate subject for present consideration.

5. The orders of the Honourable Court, taken to their full extent, would no doubt require the transfer to the Collector of all the duties now done by the Magistrate, including the charge of the jail, the commitment to the court of circuit, the attendance on that court, and the preparation of all the numerous papers required. That the execution of those duties would considerably embarrass the Collector and defeat the end in view by the alteration, seems to be admitted by the Sudder Adawlut as well as by the Commission. The necessity of continuing them with the zillah Judge formed a part of the arguments I have already used for the separation of police and magisterial duties.

6. In drawing the line of distinction, and prescribing the relative duties and powers of Magistrate and Collector, a difference of opinion subsists between the

* 1st and 8th of March 1816.

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the Sudder Adawlut and the Commission. The arguments of the first and the draft proposed will be found with the proceedings of 15th July and 29th August 1816: those of the Commission will be found in their reports of 25th June and 29th August 1816, with the draft accompanying. The first attaches to the Collector the subordinate duties of Magistrate, the cognizance of the lesser order of crimes, with the charge of the police, under the new denomination of "Police Magistrate;" the second gives all the ordinary magisterial duties, saving the charge of the jail, commitment to, and attendance on the court of circuit, to the Collector, constituting the zillah Magistrate a "Criminal Judge," with cognizance of the higher order of crimes, and those duties not given over to the Collector as the new Magistrate.

7. As the whole proceeding is founded on the express orders of the Honourable Court, individual opinion cannot have practical operation. It is not necessary to enter deeply into the discussion of the merits of either plan: the expediency of adopting one or the other must depend on this question, Which comes nearest the expressed object and intention of the Honourable Court? On this principle, I consider the draft of the Commission ought to be adopted, as being most consonant to the general view of the case pointed out in the several general letters on the subject.

8. I must, however, remark, that the criminal Judge, although placed ostensibly in the line of gradation between Magistrate and court of circuit, is debarred from all exercise of intermediate or gradationary control; an omission for which I can find no reason assigned. It is a power that he ought certainly to possess, and the exercise of which would go far towards the prevention of those abuses, the danger of which presents the great objection to entrusting Magisterial power with the Collector of Revenue. Progressive control and due subordination, throughout its various ranks and degrees, are essential to the regularity of every department: for this the existing code sufficiently provides, and points out the manner in which such should be maintained on the present occasion.

9. The purpose would be completely answered by the insertion of a section in theRegulation for the office of criminal Judge, authorizing him to receive and take cognizance of all petitions presented to him by any person conceiving himself aggrieved by any act of the Collector in his capacity of magistrate, his assistant, or any native officer of police employed under him, and to pass such order under the Regulation as may seem to him proper.

10. The powers here described are the same as those now exercised by the court of circuit, collectively, over Magistrates, under Section 16, Regulation IV. of 1811. The Commission have rescinded that Regulation entirely; but they have re-enacted the section above quoted, only as relates to the court of circuit and criminal Judge. The controlling power which that section conveys, continues operative only over that officer, whose direct magisterial authority being done away, the less requires it, while it is entirely withdrawn from him to whom the authority is transferred, and for whose control it was expressly enacted, at the very time, too, when the junction of revenue and magisterial functions renders control more imperiously requisite. For this omission no reason whatever is assigned: nor can I trace any thing in the orders of the Honourable Court militating against the insertion of so important and necessary a provision, in conformity with the established rule.

11. It may be argued, perhaps, that the general right of reporting on the conduct of Magistrates, vested in the Judges of the court of circuit, and the liability of Magistrates and servants to civil prosecution, will operate as sufficient check against irregularities; but the process, in either of these cases, is much too tardy to have effect. Magisterial abuse may operate in a manner pressing and immediate, short and summary means should therefore be open for obtaining relief.

12. The first drafts of these Regulations, as sent up with the letter from the Commission of the 25th June, were certainly, in many points, objectionable. Instead of merely transferring the duties of Magistrate to Collector, important alterations were made in the criminal code, no way connected with the orders

of

Minute of Mr. Fullerton, 13 Sept. 1816.

of the Honourable Court; and Government were thereby required either to pass the alterations without the necessary degree of consideration, or delay the preparation of Regulations required to be speedily put in force under the orders of the Honourable Court. I am happy to find the objections are now removed. Sections 2 and 3, Regulation I. of 1810, are restored, as they originally stood; and the repeal of Regulation XIII. of 1809, is submitted as a question for consideration, disconnected, as it certainly ought to be, with the immediate object of the three proposed Regulations.

13. As the recommendation of the Commission for the repeal of Regulation XIII. of 1809, is now before the Board, the present may be considered the proper time for recording the reasons which occur to me against that measure. Although gang robbery has never fortunately attained to that degree which it appears to have reached in the provinces of Bengal, when similar regulation was published there, it has nevertheless been, and still continues to be the prevalent crime in many parts of these territories, and particularly in the Northern Circars. The persons generally heading gangs are Rajah cast, Zemindars dispossessed for failure or former rebellion, or relations of Zemindars claiming zemindarries, and at variance with the head of the family. Taking advantage of the jungly and mountainous nature of the country to find shelter, they occasionally burn and plunder the villages of the low and settled country, with the view of exciting attention to their claims, and in the hope of inducing Government or their opponents to a compromise. Persons of this description generally have adherents. It is absolutely necessary that the aiding and abetting such offenders should be denounced as a crime, and efficient means taken to ensure the condign punishment for such being by no means uncommon.

14. As regards the offender proclaimed, the Regulation declares the punishment to which men subject themselves by resisting or flying from the process of the court, as regards the aider, abetter, or wilful concealer. It more distinctly defines the crime, and by proclamation points out the man, the assisting or harbouring of whom constitutes that crime, and the whole is calculated in a summary manner to rid the country of a notorious offender, dangerous to the peace.

15. The arguments adduced by the Commission against the severity of the law do not appear to result from much consideration of the subject. The circumstances stated, the possibility of compulsive aid, are matters that may be proved and adduced in mitigation or exemption from penalty, in the course of investigation directed to be pursued. The wilful aiding, abetting, or lodging robbers proclaimed, is not the less a crime because peaceable men may sometimes be compelled to afford them food and lodging. The circumstance of compulsion may be proved, as well as ignorance of the proclamation, if such ignorance existed: the latter, however, presupposes neglect of the Magistrate. On the principle assumed by the Commission, the sentence of death for murder might be objected to, because a man may sometimes be obliged to kill another in his own defence.

16. The settled state of the country may be ascribed, in a great measure, to the promulgation of the law, and its rescission might probably reproduce the crime. The law may, at first sight, appear to be severe, but there are many guards against its improper application. The case must be stated first to the Sudder Foujdarry Adawlut: the notoriety of the character of the party, the nature of the offence committed, must be considered, before the law can be acted on; and full authority is given to the Sudder court to mitigate the punishment whenever they see fit.

17. The arguments against any alteration of Sections 2 and 3 of 1810, and against the repeal of Regulation VIII. of 1809, will be found detailed at length in paragraphs 145 to 157 of the Sudder court's proceedings, under date 15th August 1816. They sufficiently display the misapprehension of the Commission as to the nature of the Regulations then discussed; and being founded on experience and practical knowledge, must be considered as conclusive.

18. In respect to the jurisdiction given to Collectors, in the capacity of Magistrates, over Revenue offences, the draft, as they originally stood, were certainly inadmissible, inasmuch as they manifestly united the prosecutor and

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the Magistrate. The Collector is the guardian of the revenue interests of Government: if he does not prosecute (that is, bring before the proper authority every breach of the revenue laws) he does not do his duty. The office of Revenue Collector and Magistrate being united in one person, unless rules be laid down to prevent it, the official prosecutor and Judge would, in many revenue cases, be confounded.

19. It is quite impossible that the Collector can divest himself of all interests in revenue cases. He must have an interest in the extent of his collections: his credit and reputation, and in most cases his emoluments, are concerned. It is right and proper that it should be so, but excess of zeal must be guarded against. Its effects are known to all who have ever exercised the duties of deliberative control. That official interest biasses the judgment and disqualifies for impartial decision in cases when the office is concerned, is a matter long established, and confirmed by every day's experience. It is exactly on this principle that the due separation of executive and judicial duties has, since the establishment of a regular system of government, been deemed indispensable.

20. If the Revenue, therefore, is to have the benefit of penal laws, the administration of those laws must be in the hands of an independent person, who has no interest, personal or official, in the collection of the revenues concerned; nor is there any thing to be found in the letters from the Honourable Court of Directors to sanction such a deviation from long established principles of justice. If it be admitted, that the plaintiff is not to be the judge in civil process, it must follow that the prosecutor cannot be the Magistrate in the criminal side. The summary enumeration of the Regulations on revenue cases adopted by the Commission, may be pursued, to show the operation of the principle here laid down.

21. Regulation I. of 1805 and Regulation II. of 1807 declare all penalties for breach of the Revenue Laws then enacted to be recoverable only by the civil Judge, and leave no remark necessary, unless to inquire why penalties in other cases should be determinable by the Magistrate. The security contemplated in all is much the same.

22. (Regulation I. of 1808, Section 2.) The license here quoted is, to all intents and purposes, a mutual compact between the Collector and the distiller. The breach of compact and penalty resulting was, under the first draft, left determinable by the Collector, in his capacity of Magistrate; that is, by one of the contracting parties. It is surprising that the Commission overlooked, in the first instance, the legal inefficiency of such an arrangement; such a deed would, in law, have proved an absolute nullity. The oversight, though not acknowledged, is corrected in the draft now before us, by making the case cognizable by the criminal Judge.

23. (Clauses 1 and 2, Section 13, Regulation I. A. D. 1808.) Here we find the Collector in his capacity of Magistrate, punishing to an extent far exceeding his common powers, in a case in which he is interested, receiving two and a half per cent on the amount of revenue, which must be affected by every deviation subjecting to punishment. The offence is clearly a breach of revenue law only. It is quite different from that stated in clause 3 of the same section, which being in its nature an offence against the community, a nuisance, comes clearly under the criminal law.

24. The offence stated in clauses 1 and 2 should, therefore, have been made over to the cognizance of the criminal Judge. It is necessary also to remark, that although the Commission appear to consider it as similar to those under Sections 23 and 24 of Regulation I. of 1812, and Sections 20 and 21, Regulation III. of 1812, they have not limited the punishment to the quantum prescribed in Sections 32 and 33 of Regulation A. the common powers vested in the Magistrate, but left it in its original extent.*

(Regulation VII., A. D. 1811.) The penalties declared in this Regulation are cognizable by the zillah Judge or court of circuit. No objection to the unity of revenue and magisterial duties occurs.

25. (Regulation

* This error has been rectified since the Regulations were in circulation with me.

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25. (Regulation I. of 1812, Section 21.) The Collector must here, *ex officiò*, be the prosecutor, nine times in ten. His official interest is strong all through this Regulation, and his personal interest is directly involved. He shares the proceeds of the sale of smuggled goods; he punishes for smuggling or secreting articles smuggled. His interest is involved in both: the proof of the one is indeed the proof of the other. His claim to share is founded on the fact of smuggled goods being secreted, and the liability to punishment rests exactly on the same fact. To say the Collector has no interest, is to contradict the very letter of the Regulation, for Section 20 is expressly intended to give him that interest. The duties of Magistrate and the claim to share, here described, are perfectly incompatible in one person, and I cannot believe any Collector would wish to be placed in such a situation. The errors here noticed stood on the first drafts, and the advantages of reconsideration and further deliberation are conspicuous in the alterations; but it must not be forgotten, that the offence stated in Clauses 1 and 2, Section 13, Regulation I. A. D. 1808, still remain to be transferred to the cognizance of the criminal Judge.

26. On an attentive consideration of the Police Regulation, I do not find that any notice is taken in the report received from the Commission of Regulation I. of 1816, now in force, for the collection of police funds in the district of Tanjore. The system of police recommended by a Committee, about the year 1813, is now in full operation, and the people contribute largely for its support; the effects, therefore, of the publication of the Police Regulation, now submitted, as relates to that district, would be, that the inhabitants would have to do the duty, for the performance of which they already pay. Similar remarks apply, though not so directly, to the inhabitants of the zillah of Chingleput, where, as I understand, the contribution paid to Poligars for police expenses have not been relinquished, but assessed on the lands, Government maintaining the police establishments, under Regulation XXXV. of A. D. 1802, to the exemption of the people from the performance of that duty. This subject will be found fully detailed in the proceedings of the Board of Revenue of......

27. The state of police duties in these districts (and others may be found similarly situated) affords the exemplification of the expediency of some local inquiry preceding the promulgation of the Regulation, and I would certainly recommend, that the period for publishing them in legal form be left to the Commission. As it has not been judged proper to await the explanations called for, and which could alone enable Government to form an opinion how far the different districts were prepared for the introduction of the new system, the measure must rest on the responsibility of the Commission, and we must rely on their prudence and discretion for making such arrangements as may be required, for removing the impediments that seem to present themselves in particular districts.

28. Before I conclude, I think it right to remark, that the Commission were placed in communication with the local authorities so far back as March 1815, and no report of their proceedings, in consequence, has to this period been received. I beg leave to suggest, that they be called upon to submit periodically copies of their detailed proceedings, for the information of Government and the Honourable Court of Directors, in like form and manner as those furnished by all other subordinate Boards and departments.

(Signed) R. FULLERTON.

13th September 1816.

MINUTE *of* ROBERT FULLERTON, ESQ.

***Dated the* 13*th September* 1816.**

Minute of Mr. Fullerton, 13 Sept. 1816.

Having attentively considered the draft of the Regulation submitted by the Commission, in their letter of the 4th instant, "for authorizing Collectors to "refer disputes regarding boundaries, also respecting occupying, cultivating, "and irrigating of land in certain districts, to be decided by punchayet," the following

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following remarks occur to me, which I think it necessary to record. It is clearly the intention of the Honourable Court of Directors, that judicial powers should be vested in the Collectors, in certain revenue cases, to a very considerable extent. Such, indeed, is obviously the most important improvement in the system, inasmuch as it affords, by a more prompt and summary administration of justice, security and protection to a numerous class, who can neither afford the time nor expense required to conduct a regular suit. Under the provision of this draft, cases may come before the Collector, wherein extensive rights of Ryots, renters, Zemindars, and even of Government, may be involved.; I consider, therefore, the obligation to refer all suits indiscriminately to the decision of punchayets to be objectionable. Cases in which Government are concerned should be decided only by the regular courts: cases may also occur, in which points or principles of general importance between renter and Ryot are involved, in which neither can be impartial arbitrators. For these reasons, it appears to me that the Regulation should contain an exception to cases where the interests of the Sirkar are concerned. A discretionary power should also be vested in Collectors to decide disputes themselves where they may see fit, their decision being immediately enforced, and reversible only by regular suit before the court: and reference should only be made to a punchayet when both parties may assent to that mode of adjustment.

I must also remark, that the fourth section of the draft seems to bear on the points already provided for under Regulation XXX. A. D. 1802. The Honourable Court of Directors have decidedly ordered the jurisdiction under that Regulation, also Regulation XXVIII. A. D. 1802, to be transferred to the Collectors; and Government directed Regulations to be prepared accordingly by the Board of Revenue, which, however, have not yet been received.* As these Regulations will set at rest any doubts that may be entertained on this point, it appears to me necessary that the Board of Revenue should be called upon to forward them without delay. They are the only documents now required to complete the new enactments directed by the Honourable Court.

(Signed) R. FULLERTON.

Fort St. George, 13th September 1816.

MINUTE *of* ROBERT. ALEXANDER, ESQ.

Dated the 13*th September* 1816.

Minute of Mr. Alexander, 13 Sept 1816.

In offering a few remarks on the revised Regulations submitted by the Commissioners, for transferring the duties of Magistrate to the Collector, for creating the office of criminal Judge, and for establishing an uniform system of police in the territories under this Presidency, it is not my intention at all to impugn the general principle of those Regulations, which, I perfectly concur with the Commissioners, has been peremptorily prescribed by the Honourable Court, or in any material degree to retard their enactment, the acceleration of which has been so anxiously pressed upon the attention of the Board by our President.

It would, however, be a criminal dereliction of duty, to pass the Regulations in question without noticing what, in the only perusal of them that I have had an opportunity of making, has struck me as defective, and which, if the Board should concur with me in opinion, would admit of easy correction, without involving any material delay in their promulgation.

The principal objection which has occurred to me to the provisions of Regulation A. for transferring the duties of Magistrate to the Collector, is the absence of that control which the Government, after nine years experience of the operation of that office, were pleased to impose on it, by the provisions of Sections 16 and 17 of Regulation IV. of 1811.

I am willing to admit, that by Section 40 of the present Regulation, a very salutary control is vested in the Court of Circuit over the recorded proceedings of

* Vide Regulation XVII, 1st March, 1815.

Minute of Mr. Alexander, 13 Sept. 1816.

of the Magistrate, and one that in most cases might prove sufficient, if it had full effect; but it is to be observed, that clause third of the above section loses much of its force, from the circumstance of the Commissioners having declared, by Section ... of Regulation B, that Section 24 of Regulation VIII. of 1802, which prescribes the duty of the Foujdarry Adawlut, in admonishing the parties, or eventually reporting to Government the conduct of the Magistrate, to be applicable only to the criminal Judge.

The omission, however, of the provisions of Sections 16 and 17 of Regulation IV. of 1811, as applicable to the Magistrate, is of much greater consequence. These provisions, it is to be observed, were considered a necessary, or at least a desirable check on the conduct of an officer, who was obliged, twice in the year, personally to present returns of all his proceedings in the criminal department to the Court of Circuit, whereby, of course, the best opportunity was afforded to that court, of scrutinizing, and if necessary of correcting them. If, however, under these circumstances, such a check was necessary, much more must it be considered so in the case of a Magistrate under the proposed system, who, upon the principle of avoiding collision, is relieved from the obligation of personal intercourse with the Court of Circuit, and only required to send him calendars, shewing part of the number of persons apprehended, released, and punished, and who, instead of as formerly confining the act of punishment to the principal station and the resort of the Circuit Court, will have his jail, and stocks, and whipping-post, in every the remotest village in the district; the erections of which, I may here incidentally remark, in the numerous parts of the country where they do not now exist, will not produce one of the least forcible effects of the new system.

In the opinion of the Commissioners, however, the sections before referred to of Regulation IV. of 1811, which, for the convenience of the Board, are quoted in the margin,* are not applicable to the Magistrate but to the criminal Judge, an officer who, by the present Regulations, has no original criminal jurisdiction, and whose proceedings in that department must almost of necessity, from first to last, come under the eye of the Court of Circuit. Had the Commissioners, after rescinding the whole of Regulation IV. of 1811, restored no part of it, the omission, in regard to the Magistrates, would not have been so obvious: but they have revised the clauses alluded to, and inserted them verbatim, in Sections 24 and 25 of Regulation B, for the office of criminal Judge.

I confess they appear to me, for the reasons I have before stated, little if at all applicable to the circumstances of that officer (except, perhaps, as far as respects the charge of the jail), though I am not at all desirous to expunge them from the Regulation for his office. At all events, it appears to me a matter of such consequence, that I consider it my duty, respectfully but earnestly, to recommend to the Board their insertion in Regulation A, whether they be excluded from Regulation B or not.

I would next advert to Section 33 of the Regulation, which limits the extent of punishment by the Magistrate for petty thefts. The utmost period of confinement allowed by this section is one month, which, like that of fifteen days allowed in the preceding section, is declared to be either in the village choultry or zillah jail, at the option of the Magistrate. It appears to me, that when a crime involves the punishment of so long a confinement as one month, the purposes of justice would be best answered by its taking place in the principal jail of the district; and for this reason, as well as that the latter jail may be supposed in general to be better regulated than the village choultry, I would recommend

* "Section 16. Two or more Judges of a Court of Circuit, forming a court at the Sudder "station, are further hereby declared competent, on all occasions, when it may appear neces- "sary, upon petitions presented to them relative to the proceedings of any zillah Magistrate, or "of an assistant to a Magistrate within their jurisdiction, to call upon the Magistrate for his pro- "ceedings, or those of his assistants, on the case, and to pass such orders thereupon as they may "deem proper and consistent with the Regulations.

"17. In like manner, the court of Foujdarry Adawlut are declared competent to call for the "proceedings of any Court of Circuit, or of any zillah Magistrate, or assistant to a Magistrate, "whenever it may appear requisite, and to pass such orders thereupon as that court may deem "just and proper."

Minute of Mr. Alexander, 18 Sept. 1816.

commend that, in all cases involving so long a confinement as one month, or any exceeding fifteen days, the criminal should be sent to the zillah jail.

On Regulation B for the office of criminal Judge I have nothing to propose, except the obvious correction which I see was suggested by a remark in circulation, that the designation of "criminal Judge" should be observed throughout the Regulation, whenever that officer is mentioned, which in the draft has not been done.*

With regard to Regulation C, for the establishment of an uniform system of police throughout the territories under this presidency, I think it proper to observe, that it sets out with a preamble or formal declaration in the name of Government, that it is "expedient that a system of police, founded chiefly on "the ancient usages of the country, should be established," of course implying that such is the purport of the enactment: a circumstance, contradicted by the experience of facts, as recorded in various departments of Government, and not at all consistent with the subsequent provisions of the Regulation.

In the zillah of Chingleput, it is very obvious, from a reference to Regulation XXXV. of 1802, that the ancient usage in that part of the country had established a system of police, most materially differing from the one now proposed, and carried on by the agency of Poligars or Cavilgars, and other officers under them, in different gradations, down to the village Talliars: a system which, with little or no modification, was known to obtain throughout the provinces of the Carnatic, Tanjore, and the Southern Pollams.

In the Northern Circars, the information as to the ancient police, to be gathered from the reports of the local authorities, is very defective; but it may be said to have been carried on, in great measure, by means of an armed militia, whose Sirdars and their followers were chiefly maintained by lands held free or with trifling quit-rent.

These police agents, I believe, I am fully justified in asserting were, for the most part, independent, and unconnected with either the head Meerassadars of villages or the revenue establishments of the Government; persons who, in the system now to be established, form the principal agents under the Superintendent of Police, which must surely, therefore, be admitted to differ in too material a degree from ancient usage, to justify the declaration in the preamble to which I have objected.

This objection, it may be said, has little to do with the substantial provisions of the Regulation; and I am ready to admit the fact, and also most cordially to express my sense of the advantage which the proposed system, when established, will be found to possess over any that I can trace of ancient usage: but this does not remove, in my mind, the propriety of altering the preamble, which, as it now stands, appears to me calculated to involve the Government, of which I have the honour to be a member, in great inconsistency, and to convey deception to those who may peruse the Regulation at a distance.

I have, in the foregoing remarks, briefly touched on the circumstances tending to shew the degree in which the proposed system of police differs from that of ancient usage: but the fact will become fully evident, by a reference to the proceedings of the Board of Revenue upon some parts of the present Regulation which has been sent down to them, and on which they have reported on the 22d August.

Another point I cannot avoid noticing is the proposition contained in the latter part of Section 48, that all the "police and revenue servants shall be "regarded as belonging to the Revenue establishment only."†

That the duties of revenue and police shall be indiscriminately performed by all the servants under the Collector and Magistrate, according to the orders of that officer, may be very necessary for the efficiency of both departments; but that the just expenses of the one establishment should be lost sight of, by blending

* This trifling omission has been since corrected.

† These words have since been excluded by the Commission from the Regulation.

Minute of Mr. Alexander, 13 Sept. 1816.

blending them with those of the other, is an effect of the system which, I conceive, we are called upon to obviate, as much as possible, both from a general principle of preserving distinctness in accounts, and also that we may have the means of exhibiting a correct statement of the effect of the system, in a financial point of view, to the Honourable Court of Directors.

Much has been said of the expense incurred by the establishment of the police on the introduction of the judicial system; but when the facts detailed by the Board of Revenue, in their report under date 18th December last, are considered, when a fair view is taken of the resources actually ascertained to have been assumed by the state, which were formerly appropriated to police purposes, and the reductions of many sibbendy corps, which the improved state of the country rendered unnecessary, the advantage, in point of economy will, I have little doubt, be found on the side of the present system; and though I hope and believe that still greater benefits, in point of economy to the Government, may be found to arise from the system now in contemplation and about to take place, it appears to me regular and desirable that the amelioration should be shown, as far as possible, in the distinct branch to which it may belong.

Section 44 of the Police Regulation provides for the prosecution of any of the subordinate police servants for extortion, oppression, or any abuse of authority, either civilly before the zillah court, or criminally before the Magistrate, which latter officer, in the event of conviction, is authorised to punish by imprisonment for the period of three months. This provision, I confess, appears to me entirely contradictory to the assertion contained in the ... paragraph of the report of Commissioners, and to exhibit a material alteration of the law, the effect of which is greatly to increase the authority of the Magistrates. It may, however, be considered a proper power to invest him with, in order to counteract the temptations to abuse of authority, which may be found to exist in the exercise of the duties of his widely extended establishment.

This argument, however, does not apply to the following Section 45, which provides for the trial of persons charged with preferring false, frivolous, or vexatious complaints against the police servants, for the crimes specified in the preceding section, and authorises punishment, in the event of conviction, to an equal extent.

To the last section, I confess, there appears to me to be a very serious objection, as its effect must tend to deter most persons from complaining at all; for it will require, I will venture to assert, not only just cause of complaint, but greater strength of mind than natives will in general be found to possess, to enable them to overcome the fear and repugnance excited by a knowledge, that the person to whom they appeal (master, let it be remembered, of the servant against whom they complain) is empowered by law, in the event of the failure of their suit, and in that case its too easy construction by their adversaries into proof of falsehood or malice, to inflict so heavy a punishment as an imprisonment for a period of three months.

Adverting to this extent of punishment alone,* so much beyond what the magistrate is in ordinary cases allowed to inflict, it would appear to me only consonant to the principle of the Regulations now under consideration, to refer the cases included in Sections 44 and 45 of Regulation C. to the cognizance of the criminal Judge; but when all the other circumstances are considered, and particularly the relation in which the Magistrate must stand, either to the complainant or the accused, the arguments for the measure acquire great additional force, and I accordingly feel it my duty to recommend an alteration to that effect.

The foregoing short observations embrace the principal alterations in the Regulations before the Board, which have struck me as desirable previous to their promulgation, and which I shall proceed to recapitulate.

1st. The

* The extent of punishment has been since altered by the Commission, but the principle has not, which I consider entirely objectionable.

Minute of Mr. Alexander, 13 Sept. 1816.

1st. The restoration in Regulation A of Sections 16 and 17 of Regulation IV. of 1811.

2d. The confinement of all prisoners sentenced by the Magistrate to imprisonment, exceeding fifteen days, in the zillah jail.

3d. The observance of the designation of criminal Judge throughout the whole of Regulation B. *

4th. An alteration in the wording of the preamble of Regulation C.

5th. The avoiding any direct legislative enactment, obliging all police servants to be classed as revenue servants, which may be done by the omission of a few words at the close of Section 48. †

6th. The declaring all cases of complaint referred to in Sections 44 and 45 of Regulation C cognizable by the criminal Judge instead of the Magistrate, whose subordinate agents of police must, in all cases alluded to, be either accusers or accused.

The whole of these alterations, if adopted, could not retard the promulgation of the Regulations one day; and, for the most part, affect in no degree the principle of the system.

I have offered these remarks for the consideration of the Board, under the assumption that the whole of the districts under this Government were ready for the reception and operation of the regulations; but I confess, when I contemplate the great differences that still obtain in the municipal constitution of several of the provinces, as more particularly brought to the notice of Government in the proceedings of the Board of Revenue, under date the 22d August, now before the Board, the act of declaring one system applicable to the whole, and of annulling at one stated period the whole of the existing establishment of Darogahs, as prescribed by Section 3, Regulation C, appears to me an act of most awful responsibility, of questionable effect, and one which it behoves Government to adopt with extreme deliberation and caution.

The first change in the ancient police system of the country was confined, in the first instance, by the Government which introduced it, to the zillah of Chingleput; and I am of opinion, that the present police Regulation should have only local effect in those districts which the commissioners may report best prepared for its reception, and thus be gradually introduced, until, if found applicable, it may be extended to the whole of the territories under this presidency.

(Signed) ROBERT ALEXANDER.

13th September 1816.

MINUTE *of the* PRESIDENT,

Dated the 17*th September* 1816.

Minute of the President, 17 Sept. 1816.

The President, with a view to save time and to enable Government to pass the Regulations of the Commission before the sailing of the Larkins, having communicated with them upon all the material objections made to their provisions, the Commission had, in consequence, made some alterations in the drafts of those Regulations, as originally submitted by them, which will be found to be in conformity, in some respects, with the opinions of Messrs. Fullerton and Alexander, as stated to the Board.

The chief objections of both those members of the Board is with regard to the absence of control over the Magistrate, occasioned by the omission of Sections 16 and 17, Regulation IV. 1811, in the Magistrate Regulation.

In this point the Commission have made no alteration, and the reasons they assign for making none appear to me satisfactory.

They

* This is done.

† Those words have been omitted since this paper was written.

Minute of the President, 17 Sept. 1816.

They state, that the additional control over the Magistrate, given by these sections, was not found necessary till 1811.

That, by Section 12, Regulation IV. of that year, the powers of the Magistrate were considerably enlarged; that the additional control over him seems to have been deemed expedient, chiefly in consequence of these extended powers, as it is given in the same Regulation; that as these additional and higher powers will now be exercised by the criminal Judge only, they have made the additional control applicable to him.

That the Collector, as Magistrate, has only the ordinary powers formerly belonging to the zillah Magistrate under the code; that in cases of corporal punishment, where those powers are reduced nearly one half, as he can now inflict only eighteen instead of thirty rattans, and that as the Judge of circuit can send him such orders as he may think proper, respecting the proceedings forwarded with his calendars, to which he is bound to conform, and can report for the orders of Government all complaints against him in every instance of misconduct, the control under which he is placed seems to be quite enough to answer every useful end.

With regard to the objection of the inhabitants of Tanjore not being liable to the performance of police duties, because they pay a police tax, it may be observed, that the great mass of the inhabitants will not be required to discharge any such duties.

The produce of the tax will go as usual to the maintenance of a police establishment; but the heads of villages in that district will be required, like those of other districts, to take charge of the police servants of their respective villages.

The head of the village contributes no more to the police than any other inhabitant: he pays one or two fanams a year, according as his house may be thatched or tiled. It surely cannot be supposed that the payment either of one or of two fanams a year is to exempt the head of the village from the performance of his duties; more particularly as his police duties are so light as to be little more than nominal, and as he is generally glad to undertake them, for the sake of having the village servants at his disposal.

The imaginary right of the head of the village to exemption from police duties, because he pays a police tax, might easily be done away, by exempting him from the payment of his one or two fanams, which would hardly make any perceptible diminution in the produce of the tax; but such an exemption does not seem necessary, because he does not act exclusively as a police officer, but discharges police duties incidentally, as part of the general duties of his office as head of the village.

The President approves of Mr. Fullerton's suggestion, that the Board of Revenue be called upon for the Regulation which they were ordered to prepare, by the seventeenth resolution of Government, dated 1st March 1815.

(Signed) H. ELLIOT.

Fort St. George, 17 September 1816.

JUDICIAL COMMISSIONERS *to* SECRETARY *to* GOVERNMENT,
Dated 23d September 1816.

To the Chief Secretary to Government of Fort St. George.

Report of Judicial Commissioners, 23 Sept. 1816.

SIR:

WE have the honour to acknowledge the receipt of Mr. Secretary Hill's letter of the 13th instant, and to report that Regulations IX. X. XI. and XII. 1816, have been printed, and will this day be sent to the Secretary's office.

We

Report of Judicial Commissioners, 23 Sept. 1816.

We have no doubt that, when sufficient time shall have passed for these Regulations to be generally understood, and to be completely carried into effect, they will be found to answer the ends expected from them by the Honourable Court of Directors.

We have the honour to be, &c.

(Signed) THO^s. MUNRO,
First Commissioner.
GEO. STRATTON,
Second Commissioner.

Madras, 23d September 1816.

MINUTE *of* PRESIDENT,
Dated 31*st December* 1816.

Minute of President, 31 Dec. 1816.

The Regulations drafted by the Commissioners for the revision of the judicial system having been completed and promulgated, after laborious investigation and voluminous discussions, in the progress of which the presence of the Commissioners at the Presidency was indispensable, the period is at length arrived when Colonel Munro, the First Commissioner, is to proceed to visit such of the districts as he may think necessary, for the purpose of observing the progress made in the introduction of the new Regulations, and of communicating personally with the local authorities on the best means of obviating any difficulties which may arise.

It is with regret I am to state, that Colonel Munro would have proceeded to fulfil this duty at an earlier period, if he had not been detained at the Presidency by a severe indisposition.

In adverting to the approaching departure of the First Commissioner, I beg leave to bring to the attention of the Board the sixth paragraph of the Court of Directors' letter to Madras, under date 20th December 1815, which states as follows:

" Par. 6. " The residence of the second member of the Commission at the " Presidency will enable the senior member to employ much of his time, con- " formably to the fifth paragraph of his instructions, in visiting the districts, " for the purpose of communicating personally with the local authorities on " the system of internal administration, its operation, whether in opposing or " promoting the comforts of the people, and the prosperity of the country, and " the means by which it may be improved." " Far from objecting to the lati- " tude which is given to Colonel Munro in the fourth and fifth paragraphs of " his instructions, we much approve that you have directed his inquiries to the " revenue as well as to the judicial branch of the administration, and we have no " doubt that you will be equally disposed to attend to his suggestions for the " improvement of the one and the other."

In conformity to the instructions contained in the above paragraph, I now propose that Colonel Munro be directed to make such inquiries into the revenue affairs of the districts through which he is to pass, as he may think useful, and to report his observations to Government.

(Signed) H. ELLIOT.

Fort St. George, 31st December 1816.

MINUTE *of* ROBERT FULLERTON, ESQ.
Dated 12*th February* 1817.

Minute of Mr. Fullerton, 12 Feb. 1817.

Agreeably to the intention expressed at the conclusion of my minute of 17th September last, I beg leave to record my opinion, as to the mode of transferring to Collector's jurisdiction in certain revenue cases.

Par.

Minute of Mr. Fullerton, 12 Feb. 1817.

Par. 1. The Commission have already proposed, and Government have passed a Regulation for vesting in the Collector, power of taking cognizance of disputes regarding boundaries of lands and of villages, as also in certain districts respecting occupancy, cultivating, and irrigating lands, between proprietors or renters and their Ryots, and of referring the same to punchayets of districts or villages for adjustment. The enactment of a Regulation to this effect is certainly ordered by the Honourable Court, but the Regulation passed appears to me to perform the object in view in a very partial and imperfect manner. The Commission seem in its compilation to have followed rather the letter of one paragraph of a general letter, than the great and leading principles, as conveyed in the several communications from the Honourable Court, on the subject of vesting judicial power in Collectors. The duty of preparing Regulations for the enforcement of the rules regarding pottahs and distraint by Collectors having been assigned to the Board of Revenue, the Commission probably considered themselves debarred from entering fully into the question. In my minute of 13th September, I stated briefly the alterations that I conceived should be made in that Regulation: as it forms, however, a part of a general subject of great importance and extensive operations, and is now the only point contained in the Honourable Court's letter of the 29th April 1814 not provided for, it will be necessary to refer to all their communications on the vesting of judicial power with Collectors. It will be found they involve important and salutary alteration in the administration of the laws for the security of the Ryots in their possessions, and for affording them redress against undue exaction, by the abuse of distraint and neglect of the pottah Regulations.

2. The remarks on this subject contained in paragraphs 167 and 168 of the revenue letter from the Honourable Court, under date 12th April 1815, arose out of a proposition from Mr. Ravenshaw, Collector of South Arcot, to vest in Collectors power of taking cognizance, in the first instance, of all disputes between renters and their Ryots, regarding cultivating, occupying, and irrigating land. The proposition had been approved by Government, and in their resolution, under date 4th February 1814, the Board of Revenue were directed to prepare a Regulation accordingly, or rather to insert the provisions in the Regulation then in contemplation for the decennial leases. In the 469th and 470th paragraphs of the same letter from the Honourable Court, the proposition of Mr. Ravenshaw for vesting in Collectors power to hear and determine suits between Zemindars or renters and their Ryots, respecting revenue collections, is also referred to, and the Honourable Court, expressing a favourable opinion of such an arrangement, intimate the intention of sending copy of their dispatch to Bengal on the subject. That document has since been received, and Government are directed, should they not feel prepared to adopt that principle, to take the opinion of the Sudder Adawlut, the Provincial and Zillah Courts, the Board of Revenue, and above all, of the Commission.

3. In the Judicial letter of 29th April 1814, the attention of Government is recalled to a former communication of 16th December 1812, on the enforcement of the pottah Regulation; and it is subsequently observed, that that matter falls under cognizance of the Collector, in his magisterial capacity. The revisal of the Regulation regarding distraint is also pointed out as being necessary, and the prohibition on the power of distraint without judicial process is also suggested as a proper measure, adding that no arrears should be recoverable, except the demand be founded on a pottah. Disputes regarding boundaries are also mentioned as fit subjects for the Collector's decision, and the revenue cases alluded to are suggested as proper for the decision of punchayets, if *such should be considered necessary*. The views of the Honourable Court must be looked for, therefore, in the letter from Mr. Ravenshaw, which produced the remarks, and in the letter to Bengal, which is stated to contain their sentiments on the subject. Those sentiments will be found in paragraphs 69 to 87; but the essential principles on which the existing law should be amended will be found in paragraphs 77, 78, 79, and 80, the latter of which I beg leave to quote.

" We must own that these Regulations, as they affect both Judges and Col-
" lectors, appear to us to be imperfectly adapted to the objects they have in
" view, which, in our opinion, can only be effectually obtained by a provision

" which

"*which should enable the Zemindars, on the one hand, by a prompt and summary*
"*process, to realize their dues from the cultivators, and thereby fulfil their en-*
"*gagements with the state; and, on the other hand, which should extend similar*
"*facilities for the protection of the cultivators from the exactions of the Zemindars.*
"We are strongly inclined to think that, by bringing this two-fold object under
"the *bonâ fide* cognizance of the Collectors, subject to the *revisal of the regular*
"*courts of justice, by way of appeal,* in cases of sufficient importance, both de-
"scriptions of our native subjects would be greatly benefited; but as the sub-
"ject is one of great importance, we are desirous that you should take mea-
"sures for collecting the sentiments of the Judges and Collectors upon it, as
"well as the more detailed ideas of the Sudder Dewanny Adawlut, and we
"shall expect to be furnished with the result of your own deliberations upon
"the general question."

4. To the first point, then, the prompt and summary means afforded to Zemindars to realize dues from the Cultivators, it will only be necessary to recapitulate the powers the Regulations confer for that purpose. Section 10, Regulation XXX. of 1802, confers on Zemindars and proprietors a right to eject the occupant Ryot from his lands, if he refuses to give the muchulkah on the prescribed terms, and to grant the land to another.

5. Under Regulation 28, the power of distraint is conferred on proprietors and under farmers, "in order that they may have the means of compelling "payment from defaulters, without being obliged to have recourse to the "courts of judicature, and incurring the expense and delay necessarily attend-"ing a law process for the recovery of arrears of rents or revenue." The powers vested, under Section 10, Regulation XXX., then, authorize landholders, by a prompt, summary, and direct act of their own, to compel Ryots to an agreement for occupying and cultivating their land; and Regulation XXVIII. authorizes them, in a like short and summary manner, to distrain Ryots' property for arrears, without reference or appeal to any court or public officer. That the powers so given are fully sufficient, has never been disputed: the evil is by many considered to rest on the other side.

6. The Regulations in question, in vesting a certain power, prescribe also a certain remedy against abuse of that power. Thus the principal provisions of Regulation XXX. are expressly intended for the security of the Ryots in the possession of their lands. They authorize them to demand a pottah, and subject landholders to prosecution and penalty for refusing to grant it within a reasonable time. They require the whole demand to be consolidated on the pottah. They are subject to penalty for demanding or receiving more than specified in the pottah, and subject to damages for the refusal of receipts for money paid.

7. In regard to the law of distraint, the object of the Regulation, as respects Ryots, is declared to be, that under-farmers and Ryots may be protected from the oppressive exercise of such power (of distraint). We accordingly find distrainers bound to follow the rule prescribed. They are liable to damages and penalties, if they distrain where no arrear is due, or infringe, in the slightest degree, the terms and provisions of the Regulation; and all suits arising out of it are to be tried in preference to others. So far the law is, in principle, correct, and requires no alteration. *It is the mode of administration* that is understood to have produced, in regard to Ryots, the complete failure of all its objects. The power vested in the landholder is prompt, summary, and efficient: the remedy of the Ryot is consequential, and to be obtained only by slow process of law; and considering the relative state of the parties litigant, seems generally admitted to be absolutely unattainable under Regulation XXX. Occupancy for example. The Zemindar may eject the occupant Ryot on his own construction of Section 9, and may continue for a time to pay his kists, although the land lies waste, but the Ryot losing his land is ruined: he can neither afford money nor time to sue for recovery, and is of necessity compelled to accept the terms that may be offered, or to forfeit his lands. Here, then, it seems one of the essential principles of the permanent settlement, beautiful as it appears in theory, is completely destroyed. The Ryots, instead of deriving security of occupation at a determinate rate, are subject to increasing demands and progressive impoverishment, and the value

value of the land, the ultimate security for the revenue, is always liable to be diminished, while the cultivation of the land, under a careless and dissipated Zemindar, instead of being conducted by a prosperous peasantry attached to the soil, at last is left to a wandering set of beggarly Pykarries.

8. The only chance of the law intended for the benefit of the Ryots taking effect rested on the strict and efficient enforcement of it at the outset. Considering, however, that the Ryot's right of occupancy was not a right distinctly understood, nor previously established in Zemindar districts, it is little to be wondered at that the law has become a dead letter. It must, however, be observed, that the non-issue of pottahs does not always rest with the Zemindar. In many parts of the country the Ryots are stated to be as averse to the exchange of pottah and muchulkah as the Zemindars. Under all the uncertainty of seasons, both parties are unwilling to bind themselves to any specific engagements. In some districts the rates of assessment are so well understood that the exchange of pottah and muchulkah are not considered necessary. The reply of the Board of Revenue to the seventeenth resolution of Government, of 1st March 1815, assigns generally the causes of the non-issue of pottah, and requests permission to defer the preparation of the Regulation until further information be received.

9. It is not, however, the law itself that we are required to change, but the mode of administration, so as to render it more prompt and efficient on behalf of the Ryot: it is not, therefore, necessary, at the present stage of the proceedings, to go into the investigation contemplated by the Board of Revenue. If the power of landholders be direct and summary, so should the means of remedy be against abuse to the Ryot, and that can only be done by interposing the summary and interlocutory jurisdiction of the Collectors, *not to decide finally, but to guard the Ryot against abuse, to maintain him in his possession where there appears no just ground for his ejection*, leaving the burthen of law process to the party the best able to bear it. The means of enforcing the grant of pottah to the Ryots, if they choose to resort to it, must be facilitated at all events: whether it suits them to avail themselves of it or not, is an after question. A better judgment may be formed on this point, when we are sure it is want of will, and not of means, that prevents their now resorting to it. I do not mean to say that alteration in the law itself may not hereafter be found necessary; but such should be the result of practical experience in its active state, after the existing cause of its dormancy has been removed.

10. It must be remarked on this part of the subject, that great diversity of opinion and variation of report exists. I have stated the case as seems generally understood, and as it corresponds with the observations I have had an opportunity of making on Zemindars' districts; but it is necessary to mention, that statements are on record, whereby it appears that the Zemindars, as well as renters, are even now unable to bring Ryots to a fair agreement for rent, or to collect the rents when due: and it is the opinion of some who had means of observation, that the difficulty is rather on the side of the Zemindars. Local circumstances may have produced different districts; but however this may be, a more prompt and summary mode of applying the law will tend to remedy inconveniences, on which ever side they rest.

Sic. orig.

11. In the eightieth paragraph of the letter to Bengal, above quoted, the Honourable Court contemplate the placing of the twofold object, the security of the landholder as well as of the Ryot, under the cognizance of the Collector. It is, however, in few cases necessary that the landholder will retain the power of direct execution, liable only to the check of the Collector, before whom he will appear as defendant for abuse of power. It does not seem advisable to preclude the direct exercise by the landholder of a power necessary for the realization of the revenue; an order, therefore, to apply, in all cases, to a Collector, for leave to eject a refusing Ryot, or for distraining the property of a defaulter, would only subject to inconvenience or delay, and even lead to a useless investigation, in all cases where arrear was actually and indisputably due It is not the propriety of the right, or power of ejecting or distraining, that is questioned, but the means of preventing abuse, that are said to be insufficient.

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It is, therefore, the remedy of abuse only that is the proper object of the Collector's jurisdiction; but as the Ryot has the benefit of the Collector's summary powers, so should the landholders, when such is required, as in the case stated in Sections 16 and 17 of Regulation XXVIII. of 1802.

12. The Honourable Court have suggested, that no distraint should be allowed, except for arrear founded on a pottah. The principle is no doubt correct, and must be held in mind as an ultimate arrangement to be attained; but if it be true, and I have no reason to doubt it, that the exchange of pottah and muchulkah does not now generally prevail, and that the non-issue of the pottah rests as much with the Ryot as with the Zemindar, it would seem unreasonable to bar the only efficient means in the hands of landholders for recovery of their dues, while the fault lays in part with those for whose protection the issue of pottah was prescribed. Disputes arising out of the distraint Regulation will naturally lead, in the first instance, to the requisition of the agreement for rent: it is the first document the Collector would call for. The speed and facility in adjusting the dispute by its production would, on practical operation of the Collector's jurisdiction, produce in the end conformity with the pottah Regulation, so as to render expedient the promulgation of a provision, that after a certain period no distraint should be legal, unless for arrear founded on written engagement.

13. A new Regulation, on the principle of leaving the law itself as it is, transferring only the jurisdiction to the Collectors, would, I am convinced, operate in full completion of the orders and instructions of the Honourable Court. In paragraph ...... of letter from the Honourable Court, they observe on the propriety of vesting further judicial powers relating to collections between Zemindars or renter and Ryot, and recommend our consulting the Board of Revenue, the Sudder and Provincial and Zillah Courts, and above all the Commission; but it must be evident that the jurisdiction over Regulation XXX. and XXVIII. necessarily involves complete jurisdiction over collections, in the first instance, and seems to preclude the necessity of further provisions. All the powers exercised by Collectors between Zemindar and Ryot would be alike applicable between renter and Ryot in rented districts.

14. As I have, in another place, stated objections to the transfer of full magisterial powers to Collectors, perhaps it will be a matter to remark, that not on this only, but on former occasions, I have proposed granting such extensive judicial powers to Collectors in civil process: but to those who attentively examine the principles on which my propositions are founded, it will be evident that, in the magisterial department, the powers are immediate and direct, most extensive in operation and under distant control, whereas, in the civil cases now before us, the decision of the Collector is intended to be final. In one instance he is vested only with summary and interlocutory judgment, to save the right of Ryots in the first instance, and every act is revisable by the regular Courts.

15. It may be proper here to remark, that it is not intended to shackle Collectors in their jurisdiction by any regular forms or records, or to subject summary suits before them to fees or costs. It will rest with them to conduct their investigations in such manner as may appear to them most conducive to the discovery of truth, by oral testimony, local scrutiny, or by deputation and report of their assistants or Tehsildars under due control. An abstract diary of complaint and decision is all the record that can be required; for the revision of the court will operate, not in the shape of an appeal, but as a regular suit *de novô* against the party in whose favour the summary investigation of the Collector may have terminated. Any attempt at form and Judicial record would delay the course and defeat the end in view.

16. The Collector has certainly at his command extensive means of information for the immediate adjustment of disputes on revenue cases, and equally extensive means for the prevention of crime and discovery of offenders in matters of police. In availing ourselves of his local means in the administration of justice, civil or criminal, the great object must be to use his agency without affecting or diminishing the respectability or supremacy of the courts of justice, and his responsibility thereto. The agency of the Collector may afford an useful

ful step in the ladder of justice; but we must be careful that it be not a barrier against advance to the higher courts, and the last resource by those who consider themselves aggrieved by any of his acts in the civil or criminal suits.

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17. The Regulation for adjustment of disputes concerning boundary occupation and irrigation of land having passed, my remarks will, on these points, be considered to be written with a view only to further deliberation by superior authorities. It is necessary that I should enter into some further explanation, and I must confess that, under the view of the Honourable Court's orders, deduced from all their communication, I should have proposed proceeding in this exactly as in other revenue cases before us, that is, without altering the law itself I should have transferred the jurisdiction over the summary provisions of it, to the Collector.

18. Regulation XXXII. of 1802 is correct in principle, and, if duly enforced, must be useful in practice. The analysis of its provisions will show that it is the prompt application, and not the alteration of them, that is required for the ends of justice. The intention, as conveyed in the preamble, is to prevent affrays and bloodshed in boundary disputes.

Preamble. Section 2 prohibits claimants from taking forcible possession, and directs a regular suit before the courts. The provision is probably less operative than it should be, because the process directed is too tardy, too distant, and does not meet the contingency of the case. The parties, aware of the delay, take the law into their own hand. Let the application be made to the Collector, and let that officer have the authority of putting one party immediately in possession, and maintaining him in it until a regular suit (if the other chooses to resort to it) settles it otherwise. The efficiency of the Regulation will be felt. The settlement of the Collector is as likely to be right as that of the Judge, probably more so, and in most cases will be confirmed.

Section 3 contains the penalty denounced against forcible seizure, which may, in the first instance, be enforced by the Collector. If the suffering party may consider himself unjustly dealt with, he can go to the court by regular suit, get back his land if he has a right to it, and recover his damages.

Section 4 contains the penalty for forcible possession, where wounds or death have resulted, viz. absolute forfeiture of civil right to the land, and liability to trial on the criminal side. The first may be declared by the Collector, subject to revision by the Judge; the second may be done by him as Magistrate, and might have been done by him as superintendent of police. The facts of forcible entry, and wounds or death inflicted, proved before the Judge, confirm the forfeiture. Both civil and criminal justice is here accelerated by the use of the Collector's authority.

Section 5 is a rule that may be enforced by the Collectors as well as by the Judges.

Section 6 contains a penalty against both the parties; and a most useful one it would be, provided the Collectors were authorized to enforce it summarily and immediately, by assuming possession of the lands for Government, the ultimate decision being left to the Judge or to the upper courts, if the extent of land be such as to warrant it. In all cases of dispute, the right of appeal to upper courts against the zillah courts' decision may be left to depend on the amount value at stake. It is not the ultimate right that is the cause of battle, but the immediate possession pending suit. A power on the spot authorized to determine that possession, or even to assume it at once for Government, will supply the remedy; and here, as in other cases, the operation of punchayet adjustment would not be sufficiently speedy to operate towards the prevention of affrays.

19. The remark of the Honourable Court on this point is very short; and it may possibly have been meant generally to give the Collectors jurisdiction, but not absolutely to order and direct one determinate course of settlement by punchayet without any discretion whatever. That many cases of boundary disputes may be settled to great advantage and convenience by punchayets, cannot be denied. Such, for example, when the rights of occupant Ryots only are

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are involved, disputes between field and field, or even village and village, may be adjusted by mutual arbitration of inhabitants of neighbouring villages; and the Collector should, no doubt, have power to refer such disputes to arbitration (parties agreeing to it). But in the general term "boundary disputes," right may be involved which cannot with propriety be discussed by a punchayet of villagers. A dispute regarding boundary between two villages, one of which is a Sircar village, the other belonging to a Zemindar, Enaumdar, Jaghiredar, or any person to whom the proprietary right has been transferred, involves not only the right of occupancy of the Ryot at the established share or rate, but also of the Sircar share of produce: for this reason, discretion should be left with the Collector in regard to reference to punchayets.

20. In a village boundary dispute, where the disputing villages belong to different Zemindars, landed property may be involved, to an extent that would authorize appeal even to the highest court. A compulsive decision by punchayet, on the requisitions of one party, would preclude important cases of property from the jurisdiction of the courts of justice. Because inhabitants of villages are apt to fight for possession of disputed land, it is not just that the proprietors of that land should lose the benefit of appeal to the courts of justice; nor is such prevention requisite to remedy the existing evil. Summary decision on present possession by the Collector, and not decision on ultimate right, is required. Compulsive reference to punchayet in boundary cases should not, therefore, form a provision of the regulation. It is only when both parties may assent that such reference should be made. The summary settlement of boundary, which the peace of the country requires, must be made by the Collector himself, and stand as law, until one party set it aside by regular suit or voluntary arbitration.

21. In explanation of this part of the subject, I beg leave to quote the one hundred and seventh and one hundred and eighth paragraphs of Mr. Ravenshaw's report, under date 4th October 1812, the document on which this useful intervention of the Collector was first proposed.

"The mischief done, and the loss of revenue in consequence, is considerable. Some Ryots (as they always will) quarrel about the right of occupancy and cultivation of a spot of ground; if one attempt to plough it, another drives him away. Others dispute about their right to, or their share of water; one party directs it one day, the next another party stops it, and takes it themselves. These, and many other similar disputes, generally end in the land dependent on them not being sown at all; or if sown, in the crop being dried up for want of water.

"If the disputants go to the Tehsildar, he can only persuade them to make it up and abide by custom, which they seldom or never will. They then come to me. I can only direct the Tehsildar to repeat his endeavours; but I have hardly ever known them succeed. If they are referred to the court, the answer is, 'I cannot afford it, my cause will not come on till the season is over.' They wait quietly, therefore, till the next season, each content with preventing the other from making use of the land, and then the same scene is acted over again."

The foregoing will sufficiently prove that the process of punchayet will not supply the remedy which the case requires; although all must admit that the actual possession being determined *pro tempore* by the Collector, punchayet may advantageously dispose of the right. Yet here it must be evident, that the punchayet is the substitute for the law process, not the remedy required for the prevention of affray. The Regulation proposed by the Commission makes no provision for disputes regarding occupancy between Ryot and Ryot, but seems specifically confined to disputes between Zemindars or renters and their Ryots: neither does it provide for the interposition of the Collector to put one party in possession; and without provision for the exercise of such direct authority by the Collectors, the object of the Honourable Court is imperfectly attained.

22. The direct interposition of the Collector's authority being in part provided for in Section 51 of the Police Regulation, further provision may perhaps

haps be considered unnecessary. To this I must remark, that Section 51, above quoted, does not meet the case, and seems to me to confound civil and criminal jurisdiction without necessity. The first part of it, for the prevention of riotous assemblies, belongs certainly to police, but in the latter part a civil right is involved; it comes, therefore, with much more propriety as a provision in the transfer of civil judicial powers to Collectors, than under the head of police, the revision of the case coming before the courts of civil jurisdiction, and not in the magisterial department.

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23. Disputes concerning irrigation are susceptible of the same course of reasoning with those regarding boundaries. Land is of little use without water, disputes regarding it are therefore alike fruitful of contentions, affrays, and breaches of the peace: but I apprehend that, as immediate occupation of land is the object contended for in boundary cases, so is the immediate use to the object of affray in respect to water.

24. It is not the abstract right to a given share of water from a certain tank that produces the affray, but the actual use of the running stream. Equally summary and prompt must be the intervention of the authority of the Collector: it will declare the right, assign the immediate use on summary investigation, and cause the decision to be respected until set aside by regular suit, a decision of a punchayet. In water the same rights may be involved as in boundary. Punchayets may, in some cases, be with much advantage employed, and may in others be altogether inexpedient; the same discretion and latitude should therefore be allowed to the Collector.

25. As to the term "occupancy between Zemindar or renter and Ryot," as used in the Regulation lately passed, it seems completely embraced in Regulation XXX. I do not understand the object of providing for it again in the new Regulation, but as no reference is there made to Regulation XXX. the two cannot, in my opinion, stand on the code without danger of embarrassment, and confuses in judicial process.

Sic orig.

26. The following abstract will shew, at one view, what I conceive to be the best mode of carrying into execution the orders of the Honourable Court foi the transfer of judicial powers to Collectors in certain revenue cases, and I can see no reason whatever against its immediate adoption.

1st. To transfer to Collectors the primary cognizance of the provisions of the pottah Regulation XXX. of 1802, with authority to enforce, by summary process, all penalties, costs, and damages, subject always to revision by the zillah courts, by regular suits, if parties dissatisfied with the Collector's decision choose to go there, adding such provisions as may be necessary to render the Regulation applicable to rented districts, also authorizing Collectors to refer to punchayets disputes and differences regarding rates of assessment, when both parties assent to that mode of adjustment.

2d. To transfer to Collectors the primary cognizance of the provisions of the distraint Regulation (XXVIII. of 1802), with authority to enforce, by summary process, all penalties, costs, and damages, arising out of a breach of that Regulation; subject always to revision by regular suit before the zillah court, if any party be dissatisfied with the Collector's decision, and choose to go there for redress. To declare the same rules applicable to rented districts; to authorize Collectors to submit to punchayets all disputes and differences relative to arrears between Zemindars, renters, and their Ryots, where both parties assent to that mode of adjustment.

3d. To transfer to Collectors the primary cognizance of the provisions of the boundary Regulation (XXXII. of 1802), with authority to enforce by summary process all penalties arising out of breach of that Regulation. To place one of the parties in possession of disputed lands or crops, or to assume possession on the part of Government from both, when the case may require it, subject always to revision by regular suit before the zillah court, if parties dissatisfied choose to go there. To authorize Collectors to refer to punchayets all disputes relative to boundaries or occupancy of lands between Ryot and Ryot, when both litigant parties assent to that mode of adjustment. To authorize Collectors to proceed on the principles here described, in all dis-

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putes concerning water: to allot the use of it, in the first instance, to the party that may, on summary investigation, appear to have the right, leaving the abstract question of right to be decided by legal process or by punchayet, if both parties assent to that mode of settlement.

27. If, however, the immediate enactment of a regulation should be considered premature, the course directed by the Honourable Court, in paragraph 80 of their letter to Bengal, might here be pursued with advantage. The sentiments of the Judges and Collectors, as well as the detailed ideas of the Sudder Adawlut, might be collected on the subject, to which may be added those of the Board of Revenue and Special Commission.

28. All the foregoing remarks apply, it will be seen, to the districts either permanently settled or rented for years. But while on the subject of revenue enactments, it will not, I trust, be considered out of the way to make a few observations on the state of the judicial code, as relating to unsettled and unrented districts. Most of the revenue laws were framed in the year 1802, and taken almost literally from the Bengal code. The permanent zemindarry settlement was at that period considered to be the established system for the future revenue management of the British territories in India. All legal provisions were framed therefore in reference to that system. It seems, indeed, not to have been at first intended, that the operations of the courts of justice should commence in any district, the revenues of which were not permanently settled; and this principle was observed until the year 1806, when Regulation II. was promulgated. By that Regulation all judicial powers, previously exercised by Collectors of unsettled districts, were withdrawn, engagements made by Collectors with Zemindars, landholders, farmers, or individual Ryots, were required to be written, and subject to the Regulation of 1802. The provisions of Regulations XXVII. and XXVIII. of 1802 were expressly declared applicable to unsettled districts, then first placed under the jurisdiction of regular courts. With the reservation of the control over Curnums in the hands of the Collector, Regulation II. of 1806 prescribed for unsettled districts the same rules as those enacted for districts permanently settled.

29. Although the introduction of the permanent settlement was, at that period considered premature, it seems nevertheless to have been held in view as the ultimate object of all intermediate revenue arrangements; and under that impression, it may not perhaps have appeared necessary to alter the law, in order to meet contingencies presumed to be of a temporary nature. The incompatibility of ryotwar arrangement with the forms required by the existing code, has often been dwelt upon by experienced revenue authorities; and now that the idea of a permanent assessment and immutable demand upon the landed property of the country is completely abandoned, and the ryotwar system of management is expressly directed to take its place, there cannot longer exist any good reason against adapting the law to the system, as the provisions of the legislature require.

30. It is unnecessary to repeat those provisions. I shall only observe, that while arrangements are conducted, by which the rights, persons, or property of the subject are affected, without being defined by Regulation, the objects in view by the judicial code must be completely lost; for it cannot, in such case, afford grounds to trace the causes of either the future decline or prosperity of these provinces. However forms may require alteration, a reference to paragraph 126 of the Honourable Court's letter of the 12th April 1815 will sufficiently show that they do not intend Ryots to be subjected to the arbitrary discretion of revenue servants: neither do they approve of restraint and compulsion, or contemplate a system inconsistent with the dictates of a liberal policy or natural justice, and consequently incompatible with the fundamental principles of the judicial system.

31. I cannot, therefore, omit this opportunity of urging the expediency of having the rules necessary for the conduct of a ryotwar settlement comprized in a judicial Regulation. Useful suggestions would, no doubt, be received on this subject from the first Commissioner, which with the propositions of the Board of Revenue would probably enable this Board to supply what cannot but be considered a flaw in the judicial code. The Board of Revenue should also

also be called upon to transmit the Regulation for the decennial lease system, as premised, with their first reports on the rents.

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32. For the prevention of embezzlement of revenue and extortion by native servants, the existing laws are quite inefficient: they were framed with a view to a revenue paid into the Treasury by a small body of landholders, and not collected from many thousand Ryots by Tehsildars. The deficiency, in this respect, will however be supplied by the promulgation of a Regulation proposed by the Board of Revenue, copy of which was sent up to Government, under date 11th December 1815, and is now under consideration by the Sudder Adawlut.

12th February 1817.

SECRETARY *to* GOVERNMENT *to* COMMISSIONERS,
Dated the 2d April 1817.

To the Commission for the Revision of the Judicial System.

GENTLEMEN:

Letter to Judicial Commissioners, 2 April 1817.

The attention of the Right Honourable the Governor in Council having been drawn to the sentiments of the Honourable the Court of Directors, as expressed in paragraphs 107 and 108 of their letter to this Government, under date the 29th April 1814, and in their letter to the Bengal Government, dated the 9th November following, from the 69th to the 87th paragraph, and to the degree in which those sentiments have been acted upon, by means of the provisions of Regulation XII. A. D. 1816, I am directed to desire that you will take the subject fully into your consideration, and will report whether it would not, in your opinion, serve to promote the views of the Honourable Court, and prove a most salutary arrangement, to give primary jurisdiction to Collectors in all matters falling within the provisions of the pottah, the distraint, and the boundary Regulations of 1802. These Regulations might also be declared applicable under every form of revenue settlement. The Collectors might be required, at the instance of both parties, to refer any point for the verdict of a punchayet; and their jurisdiction might be made, only interlocutory, competent to settle every question of present possession, but subject to revision, and corrected, in such form as might be most convenient, by the superior jurisdiction of the zillah court. You will report how far an arrangement of this nature would, in your opinion, be likely, according to the Honourable Court's desire, to "enable the Zemindars, on the one hand, "by a prompt and summary process, to realize their dues from the cultivators, "and thereby fulfil their engagements with the State; and, on the other hand, "extend similar facilities for the protection of the cultivators from the exac-"tions of the Zemindars."

I have, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 2d April 1817.

JUDICIAL COMMISSIONERS *to* SECRETARY *to* GOVERNMENT,
Dated the 15th July 1817.

To the Chief Secretary to the Government, Fort St. George.

SIR:

Letter from Judicial Commissioners, 15 July 1817.

We have the honour to acknowledge the receipt of Mr. Secretary Hill's letter of the 2d of April last, desiring us "to report whether it would "not, in our opinion, serve to promote the views of the Honourable Court, "and

Letter from Judicial Commissioners, 15 July 1817.

" and prove a most salutary arrangement, to give primary jurisdiction to Col-" lectors, in all matters falling within the provisions of the pottah, the distraint, " and the boundary Regulations of 1802."

2. We have attentively considered the subject, and as we are of opinion that giving such jurisdiction to Collectors would be a measure highly beneficial to the country, we have made drafts of two Regulations, embracing all the points adverted to in the above letter, and providing, we think, for the accomplishment of the views of the Honourable Court of Directors, namely, " to enable " the Zemindars, on the one hand, by a prompt and summary process, to rea-" lize their dues from the cultivators, and thereby fulfil their engagements with " the State; and, on the other hand, extend similar facilities for the protection " of the cultivators from the exactions of the Zemindars."

3. We take the liberty of observing, that though Regulation XII. 1816, extends to only a few of the heads noticed in the above letter of Mr. Secretary Hill, it could not have been made more comprehensive, consistently with the eighteenth resolution of Government of the 1st March 1815, which limited the jurisdiction of the Collector to the settlement of boundary disputes on the verdict of a punchayet, or with the instructions contained in Mr. Secretary Hill's letter of the 25th of May 1816, directing us to frame Regulation XII. 1816, in conformity to the Honourable Court's orders of the 20th December 1815, which limited the authority of the Collector to the referring of disputes respecting the occupying, cultivating, and irrigating of land, between proprietors or renters and their Ryots, to be tried and determined by punchayets.

4. We may also observe, that the preparation of Regulations for the enforcement of the rules respecting pottahs and distraints, recommended in the Court's letter of the 29th April 1814, was not referred to the Commission, but to the Board of Revenue, by the seventeenth resolution of Government of the 1st of March 1815.

5. As the subject of pottahs is so much connected with that of distraints, we have thought that it would be most convenient to insert whatever relates to both in one Draft A, entitled, " A Regulation for vesting in Collectors authority " to take primary cognizance of suits arising under Regulations XXVIII. and " XXX. 1802, and to refer such suits, in certain cases, to punchayets for deci-" sion, and for modifying and extending the provisions of those Regulations," and to comprise what regards boundary disputes in a separate Draft B, entitled " a Regulation for vesting in Collectors authority to take primary cogni-" zance of suits arising under Regulation XXXII. 1802, and to refer such " suits, in certain cases, to punchayets for decision, and for modifying and " extending the provisions of that Regulation and of Regulation XII. 1816.

6. As it appears to us that, under the existing laws, the Zemindars possess all the means of realizing their dues from the cultivators required by the Honourable Court, we have endeavoured in the drafts to fulfil the other part of the Court's orders, of affording protection to the cultivators from the exactions of the Zemindars. We shall now proceed to take a short review of the drafts, and to make such remarks as seem to be necessary, where it is proposed either to modify or rescind the law.

7. In Section II. Draft A, we have made the provisions of the distraint and pottah Regulations applicable to all districts, under every form of revenue settlement.

8. In Section III. the cases specified in Sections XXXV. and XL. Regulation XXVIII. 1802, are exempted from the primary cognizance of the Collector, because the cases to which the first of the above sections refers are those of persons who have already been committed to the zillah jail as defaulters, and the cases to which the last refers are those of persons desirous of instituting suits in the zillah court against distrainers of their property, for injury sustained, and of persons vested with the power of distraint wishing to prosecute in the zillah court for the recovery of arrears, in preference to distraining personal property for that purpose.

9. The provisions of Section VI. by which no property attached for arrears of rent shall be sold, unless pottahs shall have been granted or tendered and refused,

refused, or until leave shall have been obtained from the Collector of the zillah, are conformable to the instructions of the Court of Directors, in paragraphs 105, 106, and 107, of their letter of the 29th April 1814.

Letter from Judicial Commissioners, 15 July 1817.

10. As the landholder or farmer might keep the property of the cultivator long under distraint to the injury of the cultivator, it was deemed necessary to prescribe a penalty for the neglect of giving notice to the Collector within the period of thirty days, by Section 5.

11. In Section 10 we have extended to the heads and Curnums of villages the provisions of Section 7, Regulation XXX. 1802, by which proprietors or farmers of land are liable to a penalty of three times the amount of all unauthorized exactions made by them from the Ryots, because as in unsettled districts the heads and Curnums of villages have the same facility as Zemindars in settled districts, of levying such exactions from the Ryots, it is expedient, both for the security of the revenue and the protection of the cultivator, that they should be subject to the same penalties as the Zemindars. We have also provided, that from the penalties levied the amount of the exaction shall be returned to the Ryot, with such further proportion of them as may appear to be a reasonable compensation for the injury sustained ; so that, by this modification of the existing law, the Ryot will obtain immediate redress.

12. The provisions of the pottah Regulation having been extended to districts under every form of revenue settlement, it became necessary to prescribe certain periods, within which the pottahs and muchulkahs should be exchanged, in districts settled annually or for a term of years, which is done by Section 11.

13 In Section 12 we have rescinded Section 9 of Regulation XXX. 1802; and in Section 13, we have proposed the adoption of a different mode of settling disputes respecting rates of assessment, because a reference to one year, namely, that preceding the permanent settlement, was not always a fair standard to determine the rate.

We consider an average of years as a better standard for the adjustment of disputed rates, and have therefore extended it to districts under every kind of settlement.

14. The power given by Section 10, Regulation XXX 1802, to proprietors and farmers of land, of ejecting under-farmers or Ryots refusing to exchange mutual engagements, defining the terms on which they hold their land, has led to much oppression, the means of redress allowed the cultivators by suit being attended with great delays. The modification proposed in Section 14 prescribes that no ejectment shall be made, except on the previous leave of the Collector; and as the ground for the ejectment can only be the rate of assessment, the terms insisted on by one party being rejected by the other, the Collector is authorized to fix the rates in such disputes by the standard adverted to in Section 13.

15. The Court of Directors having required that " no demand of a Ze-" mindar, &c. for arrears of rent should be receivable in any court but on a " pottah" (see paragraph 107), we conceive that the provisions of Section 17, which prescribe that such suits shall be dismissed with costs when not founded on a pottah, unless it be proved that a pottah had been tendered and refused, will meet the views of the Honourable Court.

16. In Draft B we have, by Section 3, given the Collector primary cognizance of all cases coming within the provisions of Regulation XXXII. 1802, and XII. 1816.

17. By Section 5, when suits occur respecting disputed lands and crops, the Collector is authorized to put one party in immediate possession until a decision is given. He had this authority under the police Regulation, in cases only when violence was used. Under the proposed Regulation, he has it in all cases ; and his power of removing the impediments to cultivation, arising from such disputes, is thereby proportionably increased.

18. This remark is equally applicable to Section 6, by which the Collector is authorized to take cognizance of all disputes between Ryot and Ryot, respecting the occupying, cultivating, and irrigating of land.

 19. When

Letter from Judicial Commissioners, 15 July 1817.

19. When the drafts herewith submitted shall have been passed by Government, the Collector will have jurisdiction, in almost every case of public revenue as well as of rent, between individuals. He will thereby have the means of not only securing the revenue from loss more readily than at present, but of promoting the ease of the inhabitants by the speedy adjustment of their suits, while, at the same time, an appeal in every case lying open to the Zillah court, will guard them against every act of oppression.

We have, &c.

THOMAS MUNRO,
First Commissioner.

GEORGE STRATTON,
Second Commissioner.

Madras, 15th July 1817.

SECRETARY *to* GOVERNMENT *to* REGISTER *of* SUDDER ADAWLUT,

Dated 9*th December* 1817.

To the Register to the Court of Sudder Adawlut.

Letter to Register of Sudder Adawlut, 9 Dec. 1817.

SIR:

I am directed by the Right Honourable the Governor in Council to desire, that you will lay before the Sudder Adawlut the accompanying copy of a letter to the Commission for the revision of the Judicial system, with a copy of their reply, and with copies of the two drafts of Regulations herein referred to. It does not appear that the Commission have transmitted copies of those drafts to the Sudder Adawlut, but it is necessary that they should undergo revision by the Court: with that view, the extracts from letters from the Honourable the Court of Directors, alluded to in the instructions to the Commission, are herewith furnished, for the Court's information and guidance. It is desirable that the subject should engage the attention of the Sudder Adawlut as soon as may be practicable.

I have, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George, 9th December 1817.

JUDICIAL LETTER *from* MADRAS,

Dated the 19*th March* 1818.

To the Honourable the Court of Directors for Affairs of the Honourable the United Company of Merchants of England trading to the East Indies.

Judicial Letter from Madras, 19 March 1818.

HONOURABLE SIRS:

Par. 1. Our last letter to your Honourable Court, in this department, was dated the 17th of February 1817.

2. Your Honourable Court will have learned from that dispatch, that more than ordinary difficulty had been experienced in the province of Tanjore, in bringing into practical operation the Regulations which had been passed, on the recommendation of the Commission for the revision of the Judicial system, and that, in consequence of complaints made to us by the Commission against Mr. Hepburn, the Collector, that gentleman was called down to the Presidency in the early part of last year, and Mr. St. John Thackeray, the head Assistant to the Collector, was intrusted with the temporary charge of the offices of Collector and Magistrate of the district.

3. It will also be known to your Honourable Court, that, in the beginning of last year, Colonel Thomas Munro proceeded from the Presidency on a tour through

through certain of the districts subject to this Government, for purposes connected with his duties as First Commissioner, and with instructions* from us to make such inquiries as he might deem useful, into the revenue as well as the judicial affairs of the districts through which he should pass.

Judicial Letter from Madras, 19 March 1818.

4. We beg leave to request the attention of your Honourable Court to a report received from Colonel Munro,† soon after his departure from Madras, on the subject of his proceedings while in Tanjore, and of the progress which had been made in the appointment of heads of villages in that province.

5. We beg leave likewise to bring to your notice a letter under date the 10th July 1817, received from Mr. St. John Thackeray, the acting Collector and Magistrate,‡ in reply to one which we had caused to be written to him, desiring him to report in what degree the arrangements connected with the introduction of the new system had been completed in the district since he had taken charge of it; as well as a report on Mr. Thackeray's letter received from the Commission, to whom we had referred it for their consideration; and also the instructions which we issued in consequence. Your Honourable Court will observe, that we instructed the Commission to frame the draft of a supplementary Regulation, which they considered necessary to render the village system moro complete in Tanjore, Malabar, and some other districts; and that we instructed the acting Collector and Magistrate to carry into effect, in Tanjore, certain suggestions offered by the Commission, particularly that of relieving the heads of villages from the police tax and from any other house tax to which they were subject, in order to induce them to undertake the more willingly the discharge of the duties expected from them under the new arrangements.

6. Your Honourable Court will have already learned, from our Revenue dispatch of the 31st of January last,§ that Mr. Hepburn had been permitted to return to Tanjore, and resume charge of his offices of Collector and Magistrate; and you will also have been made acquainted with the proceedings that took place, during his detention at the Presidency, with reference to the complaints made against him by the Commission. Since his return to his district a letter has been received from Mr. Hepburn,‖ in which he expresses regret at the censures which were passed upon his conduct, and at the same time offers observations in his defence. The consideration of this letter has hitherto been deferred; but our President has intimated his intention of again calling the attention of the Board to that letter, and to the complaints of the Commissioners for the revision of the Judicial system against Mr. Hepburn, should future contingencies render it advisable to renew so unpleasant a discussion.

7. With reference to the 20th paragraph of our letter dated the 17th February 1817, we beg leave to point out to the notice of your Honourable Court a letter from the Commission,¶ in which they explain the grounds of their opinion, that, notwithstanding what had been stated by the criminal Judge of Chingleput, there was no necessity for any new enactment, with respect to cases of the escape of prisoners, and to misdemeanors committed in zillah jails.

8. Another letter from the Judge of Cuddapah, containing objections to several of the provisions in the Regulations passed on the recommendation of the Commission, had also been referred to that authority, and their report upon it was laid before us at our Consultation of the 15th April. With regard to the nature of the objections stated by Mr. Newnham, and the answers given to them by the Commission, we deem it sufficient to note, for your eventual reference, the papers in which they are contained.** As the Commission were of opinion that those objections would not be practically experienced, we did not consider it necessary, for the present at least, to adopt any measures with the view of obviating them. It being our wish that the defects and omissions of the new system (for such, we conceive, there must be in any new system of an equal extent) should be well ascertained before any remedy was applied to them, we acquiesced in the explanations which the Commission had afforded: but we saw reason, at the same time, to express to them our regret, that the style

* Consultations, 10th January 1817. † Ditto, 24th February 1817. ‡ Ditto, 19th July.

§ Paragraph 155. ‖ Consultations, 2d December. ¶ Ditto, 13th March 1817.

** Consultations, 30th December 1816, and 15th April 1817.

Judicial Letter from Madras, 19 March 1818.

style of their animadversions on Mr. Newnham's letter was, in some respects, liable to objection, as not tending to forward the temperate and unprejudiced discussion of questions of a public nature.

9. At our consultation of the 2d April, Mr. Fullerton recorded a Minute, which we beg leave to bring to your Honourable Court's notice, on the subject of transferring judicial authority to Collectors in certain revenue cases. Our attention was thereby drawn to the sentiments of your Honourable Court, as expressed in paragraphs 107 and 108 of your letter to this Government, under date the 29th of April 1814, and in your letter to the Bengal Government, dated the 9th of November following, from the sixty-ninth to the eighty-seventh paragraph, and to the degree in which those sentiments had been acted upon, by means of the provisions of Regulation XII. of 1816; and we instructed the Commission to take the subject fully into their consideration, and to report whether it would not, in their opinion, serve to promote the views of your Honourable Court, and prove a most salutary arrangement, if primary jurisdiction were given to Collectors in all matters falling within the provisions of the pottah, the distraint, and the boundary Regulations of 1802. These Regulations, we remarked, might also be declared applicable under every form of revenue settlement. The Collectors might be required, at the instance of both parties, to refer any point for the verdict of a punchayet; and their jurisdiction might be made only interlocutory, competent to settle every question of present possession, but subject to be revised and corrected, in such form as might be most convenient, by the superior jurisdiction of the zillah court.

10. The Commission were further instructed to report, how far an arrangement of this nature would, in their opinion, be likely, according to your Honourable Court's desire, to "enable the Zemindars, on the one hand, by a "prompt and summary process, to realize their dues from the cultivators, and "thereby fulfil their engagements with the State, and, on the other hand, ex-"tend similar facilities to the protection of the cultivators from the exactions "of the Zemindars."

11. In consequence of these instructions, the Commission prepared and submitted to us the drafts of two Regulations;* one "for vesting in Collectors "authority to take primary cognizance of suits arising under Regulations "XXVIII. and XXX. of 1802, and to refer such suits, in certain cases, to "punchayets for decision, and for modifying and extending the provisions of "those Regulations; the other "for vesting in Collectors authority to take "primary cognizance of suits arising under Regulation XXXII. 1802, and to "refer such suits, in certain cases, to punchayets for decision, and for modi-"fying and extending the provisions of that Regulation, and of Regulation "XII. 1816."

12. The Commission at the same time stated, that having attentively considered the subject, they were of opinion that giving the proposed jurisdiction to Collectors would be a measure highly beneficial to the country; and they also expressed their opinion, that the Regulations which they had drafted embraced all the points adverted to in the reference that had been made to them, and provided for the accomplishment of the views of your Honourable Court, as stated in a passage above cited.

13. The letter from the Commission, in which these observations were offered, together with the drafts of Regulations that had been prepared by them, were taken into consideration at our Consultation of the 9th December; and as it did not appear that copies of those drafts had been transmitted by the Commission to the Sudder Adawlut, whose revision it was necessary that they should undergo, we have furnished that Court with copies of them, as well as with a copy of the letter received along with them from the Commission, and have also communicated to the Court our instructions to the Commission, with an intimation of our desire that the subject should engage the Court's attention as soon as practicable.

14. We beg leave to point out to the notice of your Honourable Court a letter from Colonel Munro, dated the 26th of May 1817,† in which he reports the result

* Consultations, 9th December. † Ditto, 24th June 1817.

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result of his personal inquiries in the districts of Trichinopoly, Madura, Dindigul, and Coimbatore, with regard to the village servants, and particularly the heads of villages, and also to the acceptableness of the new system of police to the people.*

15. At our Consultation of the 17th March 1817, we authorized the Judge of the zillah of South Malabar, on the recommendation of the Commission for the revision of the Judicial system, to employ a district Moonsiff at Cochin, on twenty pagodas a month, with two Peons on one pagoda each.

16. We have noted in the margin† a correspondence that has taken place with the Commission and the Sudder Adawlut, relative to the establishment proposed by the former authority for the Magistrates of several zillahs, as well as to the establishments of the zillah courts; but we do not think it necessary to detain your Honourable Court with any remarks upon this subject at present, as the whole can be brought distinctly under your review at once, when the Commission have submitted to us their promised statement, exhibiting in one view all the reductions and augmentations of expense with which the new arrangements have been attended.‡

17. It having been represented to us,§ that it would be necessary to increase the establishment of English writers in the several zillah courts, if those courts were required to furnish the Sudder Adawlut with detailed reports of the causes decided or depending before the native judicatories in their respective jurisdictions, we intimated to the Sudder Adawlut our opinion, that it would be sufficient if the zillah Judges furnished numerical statements of the causes filed, decreed, or dismissed, before the native judicatories. At the same time, however, we caused it to be stated to the Sudder Adawlut, that it would be proper that they should furnish the zillah Judges with such instructions as they might deem necessary, with the view of preparing them for the exercise of a vigilant and active superintendence over those judicatories, and should require them specially to report every case in which any of those judicatories might deviate from the rules laid down for their guidance.

18. Your Honourable Court's attention will have been already drawn, by our Revenue dispatch of the 5th January last, to a report of Colonel Munro, dated the 4th July 1817, respecting the province of Malabar. In consequence of a letter from the Commission for the revision of the Judicial system, which was laid before us at our Consultation of the 14th October last, we authorized the Board of Revenue to entertain the establishment of native servants in Malabar recommended by Colonel Munro in that report, instructing them, at the same time, to report specially the arrangements made under this authority, and the expense attending them. On the recommendation of the Commission, expressed in the same letter, we also authorized the Judge of South Malabar to employ an additional district Moonsiff in that zillah.

19. We transmit, for the information of your Honourable Court,‖ a copy of a letter from the Commission for the revision of the Judicial system, under date the 20th December last, accompanied by two general abstract statements, shewing the number of original causes and appeals decided by the several zillah courts and by the different descriptions of native tribunals in the several zillahs, between the 1st of January and 30th of September 1816, and between the 1st of January and 30th September 1817, together with a statement of the number of appeal and original suits pending in the zillah courts on the 1st of October 1817.

20. We also forward, for the information of your Honourable Court, copies of the following documents:—

* *Generally acceptable.* Consultations, 1817, folio 1512.

† Consultations, 30th September and 4th November 1817.

‡ Committee since appointed to submit a statement of the former and present police establishments. See Consultations, 2d December 1818.

§ Consultations, 14th October and 18th November, 1817.

‖ Ditto, [illegible]th March 1818.

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1st. A letter from the acting Register to the court of Sudder Adawlut, under date the 27th of January last, accompanied by an extract from that court's proceedings, and by abstract statements of the proceedings of the zillah and provincial courts, for the first six months of last year.

2d. A letter from the acting Register to the Sudder Adawlut, under date the 29th of January last, accompanied by an abstract register of decrees passed by that court, from the 1st of July to the 31st of December 1817.

3d. A letter from the acting Register to the Sudder Adawlut, under date the 19th of February last, accompanied by an extract from that court's proceedings, and a compartive statement of the number of causes decided by the zillah courts and native tribunals, in the years 1815, 1816, and 1817, respectively.

4th. A letter from the acting Register to the Sudder Adawlut, under date the 20th of February 1818, accompanied by an extract from that court's proceedings, and by reports of the number of causes depending in the several provincial and zillah courts, and before the several descriptions of native tribunals, on the 1st of January 1818, compared with the number depending on the 1st of July 1817.

5th. A letter from the acting Register to the Sudder Adawlut, under date the 20th of February 1818, accompanied by an extract from the proceedings of that court, and by abstract statements, shewing the number of causes decided by the several provincial and zillah courts, and the several descriptions of native tribunals, between the 1st of July and 31st of December 1816, and between the 1st of July and 31st of December 1817.

6th. A letter from the deputy Register to the court of Foujdarry Adawlut, under date the 29th January last, accompanied by an abstract statement of criminal trials, in which sentences were passed by that court, in the year 1817.

21. It appears that, in the year 1815, before the introduction of the new arrangements, the number of causes decided by the zillah Judges, assistant Judges, and Registers, was 7,928, and the number of causes decided by the native judicatories which then prevailed, 30,687; and that in the year 1817, under the present system, the number of causes decided by the zillah Judges, assistant Judges, and Registers, was 4,749, and the number of causes decided by the native judicatories 66,302. The total number of causes, therefore, decided by the European and native judicatories of the zillahs, was in the former year 38,615, and in the latter 71,051, which gives a balance of 32,436 in favour of the latter.

22. We beg leave to point to your Honourable Court the following documents, recorded in the minutes of our proceedings, under date the 7th of May 1817.

1st. A letter from the Register to the Sudder Adawlut, under date the 24th March 1817, accompanied by an extract from the proceedings of that court; by statements showing the number of original causes and appeals decided by the several provincial and zillah courts, and by the native Commissioners of the several zillahs, in 1816, with the value of the property adjudged; by abstract reports, shewing the number of causes depending in the provincial and zillah courts on the 1st of January 1817, with the estimated amount of the property in litigation; and by a statement shewing the amount of fees on the institution of suits and appeals collected and carried to the account of Government, in the year 1816.

2d. A letter from the Register to the Sudder Adawlut, under the same date, accompanied by an abstract register of decrees passed by that court during the year 1816.

3d. A letter of the same date from the deputy Register to the Foujdarry Adawlut, with general abstract statements of criminal trials, in which sentences were passed by that court, during the years 1812, 1813, 1814, 1815, and 1816.

23. On

Judicial Letter from Madras, 19 March 1818.

23. On the 19th August last, we passed a resolution, that the functions of the Commission for the revision of the Judicial system should cease and determine, from the 3d of January 1818, being three years from the date of its complete formation, the period assigned for its duration by your Honourable Court. We at the same time caused this resolution to be communicated to the Commission, with instructions that they should lay before us a final report, distinctly referring to all their past proceedings, and explaining to what extent the new Regulations were in practical operation, what particular local measures might in certain cases remain to be adopted for the purpose of giving them practical operation, and what prospective course of proceeding ought, in their judgment, to be pursued with regard to them.

24. When the above resolution was passed, it was supposed that there would be sufficient time for the preparation of such a report before the day fixed for the close of the Commission. It was presumed, that the political arrangements in the southern Mahratta country, which had called away the First Commissioner, would have terminated at an early period, so as to have allowed him time and leisure to bring the affairs of the Commission to a close before the end of the year. When, however, the period fixed for the termination of the Commission had arrived, * it was found that the important and unlooked-for events which had intervened, affecting the objects of Colonel Munro's mission into the Mahratta country, had of necessity prevented his return within the time expected, and had also required his full and undivided attention, in consequence of which the preparation of the report, necessary to bring the affairs of the Commission to a satisfactory termination, had been unavoidably delayed. The further continuance of the Commission had also become desirable, in consequence of a letter lately received from the Vice-President in Council at Fort William, † requiring information as to the effect and operation of the system now introduced under this Presidency; an inquiry which, it appeared to us, could best be answered by those employed in directing the introduction of that system and watching its progress.

25. Under these circumstances, we are resolved that the appointment of the junior Commissioner should be continued until the end of March, for the purpose of his drawing up and closing the proceedings in question, continuing to act as junior Judge of the Sudder Adawlut, and communicating, when necessary, with Colonel Munro.

26. The allowances of Mr. Stratton continue on the same footing as before, up to the period above stated; but, with regard to those of Colonel Munro, as he has been for some time past employed entirely in duties of a military and political nature, under the command of the Commander-in-chiefs of the army of the Dekan, and the direction and control of the Resident at Poonah, by the special order of the most noble the Governor General, it has seemed to us proper that they should cease to be regulated with reference to his appointment as First Commissioner for the revision of the Judicial system, and should be left to the determination of the most noble the Governor General, with reference to the military duties of Brigadier-General, and the political functions of Commissioner for settling cessions or conquests in the southern Mahratta country.

27. At our Consultation of the 3d February 1817, there was laid before us a communication from the Sudder Adawlut, accompanied by a draft of a Regulation which they proposed to be enacted, with the view of removing doubts concerning the communication permitted between the criminal Judge and the Magistrate, under the provisions of Regulations IX. and X. of 1816, and of obviating the evils which might result, in cases of emergency, from the want of authority in the criminal Judge to command the services of the police, in the absence of the Magistrate and his assistant. Having duly considered the provisions of the proposed Regulation, and being satisfied of their propriety, we passed it, with some modifications of the terms in which its enactment had been expressed. It is numbered the third Regulation of 1817.

28. In the proceedings of the Sudder Adawlut, relative to the draft of the above Regulation, submitted to us by them, it was stated, with reference to a com-

* Consultations, 7th January 1818. † Ditto, 23d and 30th December 1817.

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a communication received by them from one of the zillah Courts, that in cases wherein European British subjects are charged with being offenders, the jurisdiction belonged exclusively to Justices of the peace. As, however, a very extensive jurisdiction, in such cases, is granted by Section 105 of the 53d George III. cap. 155, to the Magistrate of the zillah, we caused the error in the opinion of the Sudder Adawlut to be pointed out to them. Who should be taken to be the Magistrate of the zillah, for the exercise of that jurisdiction? was a question which had been for some time under reference to our law officers; but whether exclusively the criminal Judge or the Magistrate, or whether indifferently either the one or the other, the jurisdiction to be exercised by him was, both in its nature and extent, very different from that of a Justice of the peace.

29. The reference to the law officers, which is above alluded to, was contained in a case which had been transmitted to the Company's Solicitor, for the opinion of the Advocate-General, on the 9th December 1816. The points on which the opinion of the Advocate-General was requested, with reference to the provisions of the statute and to those of the Regulations of this Government, at present in force, were the following.

1st. Does the Collector, as Magistrate of the zillah, possess power and authority to take cognizance of the complaint of a native of India against a British subject, and to afford redress, under the provisions of clause 105, 53d George III. cap. 155, and will it be lawful for him to refuse to exercise such power and authority?

2d. The same question with respect to the criminal Judge, instead of the Collector, as Magistrate.

3d. Is it lawful for the Collector, as Magistrate of the zillah, to take cognizance of debts not exceeding fifty rupees, alleged to be due from any British subject to any native of India, under the provisions of clause 6, 53d Geo. III. cap. 155; and is it lawful for him to refuse to take cognizance of such debts?

4th. The same question with respect to the Judge, or criminal Judge of the zillah, instead of the Collector as Magistrate.

5th. Is it competent to the Governor in Council to determine what officer shall be considered as Magistrate of the zillah, for the purposes specified in clauses 5 and 6, 53d Geo. III. cap. 155?

30. The opinion of the Advocate General upon these points having been received, with a letter from the Honourable Company's Solicitor, dated the 7th July 1817, was laid before us at our Consultation of the 26th of the same month. The Advocate General stated, that the only question in the case referred to him was, to whom the denomination in the statute, of "Magistrate of "the zillah or district," was applicable. That, at the time of passing the act, it appeared that the Judge of the zillah had the exclusive jurisdiction in regard to civil controversies, and that the Magistrate of a zillah, generally speaking, and as constradistinguished from the Judge of the zillah, had no jurisdiction in case of civil controversies. That, by Regulation IX. of 1816, the office of Magistrate had been transferred from the Judge to the Collector; but the jurisdiction in civil controversies never having belonged to the office of Magistrate, under that general description, was not, it seemed, by this Regulation transferred from the Judge of the zillah to the Collector, and therefore the Judge of the zillah, under his new designation of criminal Judge, being a Magistrate, retained, the Advocate General apprehended, his jurisdiction in civil controversies, and consequently was exclusively authorized to act, under Section 106 of the Statute. That, by Regulation X. of 1816, Section 8, the Judge of the zillah, under the description of criminal Judge, had no original jurisdiction in criminal matters, unless where British subjects are parties; but, in that case, such original jurisdiction was reserved to him, and such criminal Judge was, the Advocate General thought, the only species of Magistrate who could exercise that jurisdiction, under the 105th section of the Statute. Sir Samuel Toller added, that the authority in question of the Governor in Council was not, he thought, affected by the statute; and that, by the term "Magistrate "of

"of the zillah or district," it seemed to him, was meant such Magistrate as was lawfully constituted for the purposes of the statute, at the time of passing it, or might be so constituted at any future time, though under a new designation.

31. We caused the case which had been referred to the law officers, together with the opinion given thereon by the Advocate General, to be circulated to the several local authorities, for their information and guidance.

32. In the one hundred and fourteenth paragraph of our letter in the public department, dated the 26th September 1816, we informed your Honourable Court, that we had caused a reference to be made to the Sudder Adawlut, on the subject of passing a new Regulation for the purpose of modifying, with reference to the establishment of the law classes at the College, the rules which prevailed with respect to the appointment of law officers and vakeels in the courts of justice. On the 17th of February 1817 we took into consideration the reply of the Sudder Adawlut, together with a draft of a Regulation which was received with it, and also a modified draft submitted to us by our Secretary. The latter draft having received our approbation, and it having been ascertained by a reference to Bengal, that the Governor General in Council was not aware of any objections to its provisions, the Regulation was passed in the terms of it, at our Consultation of the 19th of May. This Regulation is numbered Regulation V. of 1817, and is entitled "A Regulation for providing a "succession of Hindoos and Mahomedans, duly qualified to be employed as "law officers and Vakeels in the courts of Adawlut, under the Presidency of "Fort St. George."

33. On our proceedings of the 30th September 1817, will be found recorded a Regulation (VI. of 1817) which we passed on that day, entitled "A Regula-"tion for declaring the provisions of Section 9, Regulation XIII. of 1816, not "applicable to deeds and instruments executed previously to the 12th of July "1817, and for reviving the operation of Regulation VIII. of 1808, and Regu-"lation II. of 1813, with respect to deeds and instruments executed between "the 1st of January 1809 and the 12th of July 1817."

34. It had been provided, by Section 9, Regulation XIII. of 1816, that no deed, not executed on stamped paper or cadjan, should be admitted in evidence before any court of judicature; but that any deed might, within sixty days after being executed, be lodged with the Collector to be stamped, on payment of ten times the stamp duty. The Sudder Adawlut considered both of these provisions as not merely prospective, and accordingly applied them to all deeds executed since stamp Regulations first were in force under this Presidency. Observing, however, that the period allowed for legalizing deeds executed on paper not stamped would be of no avail to the holders of such deeds of that description, as might have been executed more than sixty days before Regulation XIII. of 1816 was to take effect, they proposed to allow an extended period of one year for that purpose; and they submitted, for our sanction, the draft of a Regulation, of which this was the object.

35. But it appeared to us, that whatever doubt might hang over the terms in which Section 9, Regulation XIII. of 1816, was expressed, it was clear that its provisions could not equitably be applied to deeds executed on the faith of the provisions of former Regulations; and further, that the same construction, by which this section was applied to deeds executed since the former stamp Regulations took effect, would also make it applicable to deeds executed before that period.

36. The measure of justice proposed by the Sudder Adawlut to be administered in the case, as understood by them, appeared to us to be in several essential respects incomplete. First, persons who, either intentionally or through inadvertence, were, under the former Regulations, exposed to the risk of having to pay ten times the proper stamp duty on the deeds executed in their favour, in case those deeds should be contested in a court of justice, were proposed to be absolutely subjected to that heavy charge. In the next place, deeds lodged with the Collector, and by him transmitted to the Presidency to be stamped, as was proposed to be done, might be lost through negligence, or might fraudulently be altered or abstracted, or might be divulged, to the injury

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jury or inconvenience of the parties, against none of which accidents was there offered any security or redress. Lastly, deeds which, in consideration either of the expense or of the risk to be incurred by leaving them with the Collector, might not be stamped, were to remain for ever null and void, contrary to the provisions of the Regulations in force when they were executed.

37. Under all these considerations, we were of opinion that the provisions of Section 9, Regulation XIII. of 1816, ought to be applied to such deeds only as might be executed after it came into operation. But the view of the subject which was taken by the Sudder Adawlut made it necessary to pass a Regulation declaratory to that effect, and at the same time restoring the law to its former state, with respect to deeds previously executed. Your Honourable Court will recollect, that the 12th of July 1817 was the date to which the commencement of the operation of Regulation XIII. of 1816 was postponed by a subsequent Regulation, as stated in the fourteenth paragraph of our dispatch, dated the 17th February 1817.

38. With reference to the hundred and fifty-seventh paragraph of our dispatch in the Revenue department, dated the 5th of January 1816, we beg leave to inform your Honourable Court, that the proposed "Regulation for the due "appropriation of the rents and produce of lands granted for the support of "mosques, Hindoo temples and colleges, or other public purposes, for the "maintenance and repair of bridges, choultries, or chuttrums, and other public "buildings; and for the custody and disposal of escheats," was, after reference to the Supreme Government, passed on the 30th of September last, in the terms of a draft recorded on our proceedings of the 19th of June. It is numbered in our code, Regulation VII. of 1817.

39. On our proceedings of the 9th of September 1817 is recorded a Regulation which, after a reference to Fort William, by which it was ascertained that the Bengal Government were aware of no objection to its provisions, was passed on the 9th of December last. The object of this Regulation (Regulation VIII. of 1817) is similar to that of Regulation XV. of 1816 in the Bengal Code, and it is entitled "A Regulation for expediting the trial of civil suits, in which the "native officers and soldiers attached to regular corps on the military establish- "ment of the presidency of Fort St. George may be parties, and for giving "them certain facilities in the maintenance and recovery of their rights, "claims, and interests." With the view of making its provisions generally known to those in whose favour they have been enacted, it has been published in general orders to the army.

40. By this conveyance we formed an index to our proceedings, from the 1st January to the 31st December 1817.

We have the honour to be, with the greatest respect, Honourable Sirs,

Your faithful, humble servants,

(Signed) H. ELLIOT,
T. HISLOP,
R. FULLERTON,
R. ALEXANDER.

JUDGE *of* CUDDAPAH *to the* SECRETARY *to* GOVERNMENT,
Dated the 9th December 1816.

To the Secretary to Government in the Judicial Department, Fort St. George.

SIR:

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The new Regulations having ordered the discharge of the several Commissioners in this zillah, and the appointment, in their stead, of only seven, the following places have been selected for the stations of their cutcherries, viz. Cumlapoor, Nossum, Vempullee, Wailpad, Tungatoor, Calispad, and Narkapoor.

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The former establishment of thirty-eight Commissioners was selected from persons in opulent circumstances of life: the greater part were not required to move from their homes, but their cutcherries were kept in their own dwellings. Under the new system a different arrangement has become necessary. Particular spots have been previously selected for the stations of the cutcherries, and from the small number of select persons commissioned to administer justice, it has been deemed advisable to nominate each person to a station distant from his home, to provide against the disabilities which might be occasioned by the Moonsiffs themselves, or their relatives and particular friends, being interested in suits, which they might otherwise be able to try: a consequence from which great obstructions might be liable to arise, when there was only a single person commissioned to act in a large extent of territory.

At the stations where the Moonsiffs are now stationed, they are not in possession of dwelling-houses in which their cutcherries can be held; and, indeed, under the full operation of the present system, no dwelling-house in the country could be adapted for the purpose, for the cutcherries should not only afford shelter from sun and rain, but be equal to the accommodation, at one time, of the many punchayets, of which the system proposes the assemblage during the transaction of business.

The places above mentioned appear to be those best adapted for dividing this large zillah into seven jurisdictions, under the plan of the Commissioners, for no talook Moonsiff being stationed in the town where the zillah court is held; but the extent of each jurisdiction is, under the present limitation of the number of select Commissioners, so great, that the inconveniences to which, in my opinion, the inhabitants may be subjected, urge me to entertain hopes that, at some future period, the number of select Commissioners will be increased. On such an occasion, it may become necessary to alter the stations, some of which have now been only fixed on because it was necessary to select stations central to each of the seven divisions.

By these means, some of the most opulent and commercial places to which, under the former system, two Commissioners were granted, are greatly distant from the station of Moonsiff, and thus the citizens of this large town, in which, until lately, six select Commissioners held their courts, are necessitated, if they prefer punchayets under a talook Moonsiff, or the less costly proceedings before him, to travel the distance of thirteen miles, Cumlapoor being the nearest station of any public officer of the sort. The consequence at present is, that although the costs in the courts of the (now only two) Sudder Aumeens have been increased, suitors express much anxiety for the Judge referring their cases to those courts; and they are also induced to be more solicitous on this subject, because now that the former fixed establishment of select Vakeels has been abolished, personal attendance is more required at the courts of the district Moonsiffs. Every merchant has not a servant or dependant on whose ability he can place confidence, and the more numerous portion of the society, or that formed of classes entirely illiterate, to which may be added the fatherless and widow and the aged, who cannot travel, has very little capacity to plead in person. Such persons seldom have either relations, servants, or dependants, endowed with greater capacity than that which has fallen to their own lot; and whether they attend in person or send an illiterate relation, they are necessitated to provide the help of some person able to give advice and assistance.

The consequence of these, and other qualities of the new system, may be the collection of many persons at the courts of the district Moonsiffs. Any idea that the generosity of the Government would, at a future period, increase in some degree the number of persons selected, commissioned, and paid for the administration of justice to this large population, would check me from proposing, that the Government should go to any expense on some of the present stations; but there are so many powerful reasons why, for the sake of humanity, the proposal should be submitted to the liberality of the Government, that it might hereafter be considered a neglect of the duties of justice, were I to refrain longer from laying the subject before my superiors, and presumption in me to have delayed the measure from anticipating any future increase of the establishment.

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establishment. The natives are very apt to complain, if a revenue officer keeps them standing exposed to the sun or to rain, and will do the like if it occur through the summons of a Moonsiff.

I shall venture to mention a few of the reasons which, under the present system, may necessitate the erection of public buildings for the courts which the Government has lately established. The former Commissioners had generally formed small courts near their dwellings; but, by their offices having been abolished so soon after they had incurred such expense, and after some of them, as well as all the Vakeels, had even undergone the greater expense of settling themselves at the stations to which they had been appointed, a check may have been occasioned to the present Commissioners laying out money for a like purpose in the present instance. However, if there still existed the inclination of building small courts, it were totally impossible for them to make buildings of a sufficient size to afford room for the accommodation of the multitude which the new system proposes to collect, if it prove successful; and by Section 13, Regulation VI. the Moonsiffs must sit in a "public court-room."

It has been mentioned how that, under the present system, a single professional pleader cannot represent many individuals; but whatever number of cases be dependant before the Moonsiff, all the plaintiffs and defendants, females as well as males, unless they be related, whether one, two, three, four, or more, in each capacity, must either attend in person, or be each represented by a particular pleader, who holds towards him or her one of the relations which the law requires. Thus, whether each individual who is a party to the case, or his or her particular Vakeel, attend, the smallest number who must continue in attendance on only fifty numbers being dependant before the Moonsiff or punchayet, will amount to one hundred; and the number will, on an average, be greatly increased, by there being several plaintiffs and defendants in some suits, and by the illiterate persons who have only illiterate relatives, servants, and dependants, becoming necessitated, if they wish to ward off the ruin of unjust demands, to undergo the cost, not recoverable in the degree of bringing in their company some person able to direct them in their defence, to instruct them in points of law, and write and read pleadings which they cannot write or read themselves. Indeed, as the plaint to be tried in punchayet is only to be read to the person sued, however great the property which is demanded from his or her hands be, it may require an extraordinary degree of composure, under such circumstances, and of strength of memory, to enable him or her to make answer, and it is final. Defendants, in such cases, will likely require the assistance of their several friends. These, and other circumstances, may greatly add to the numbers who will be continually waiting and requiring room in the "court" of a Moonsiff.

What may be the probable number which will usually be assembled I shall not here presume to estimate with exactness. There being now only one Moonsiff to a large district, accidents, to which he, with all human beings, is subject, such as the sickness of himself and near relatives, may occasion delay; and there are also ceremonies, such as attendance at the sick-bed or funerals of near relatives, for the performance of which leave of absence, even for several days, if the distance requires that time, can scarcely with due regard of humanity and piety be refused, either to him or to persons summoned to punchayet. Though the arrangements do not appear in the law, if a person watching over a dying father or mother did not leave his charge when called, and assigned for reason the pious duties in which he was engaged, the Moonsiff surely should hesitate in levying the fine. The Moonsiff is also liable to be called away, if prosecuted or summoned to give evidence in other cases, if he be employed by the Regulations in executing the several processes of the courts for sale of property, and he even is not exempted from nomination by the village Moonsiff to a village punchayet. However, when, from whatever one of the many causes liable to happen, he be absent from his station, all proceedings may be delayed until his return, as the present system and small number of Moonsiffs do not admit of the zillah Judge recalling the reference, and sending the case, on the most uncontrollable of the above accidents, the sickness of the Moonsiff, as heretofore, to a neighbouring Commissioner, who remaining free from the calamity is effective.

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It is not unfrequent that in cases, particularly those relating to trade, the plaintiff and defendant may live at the distance of one hundred or more miles from each other, and the witnesses to the transaction be residents of places distant from the habitation of either party. Such plaintiff, until lately, could authorize, even by tappal, a regular Vakeel, resident near the place where the defendant dwelt, to conduct his or her proceedings before a neighbouring Commissioner; but now he or she must proceed, either in person, or be represented by a particular Vakeel. If either, however, the principal or Vakeel have journied from a long distance for the purpose, he or she could not return home on the sickness of the Moonsiff, but must keep daily attendance on the court, in expectation of his recovery. Those who lived near might return home, but might, by so doing, be liable to make default, because of being too far distant to receive timely intelligence, having probably no friend to dispatch it, as the fixed Vakeels formerly did; or liable, also, to costs and fatigue from length of journey, might, between the two evils, judge the attendance under expectation to be the most prudent, though it be costly, and even in some degree the subject of self-vexation.

By the third clause of Section 30, Regulation VI. A. D. 1816, the Moonsiffs are justly enjoined to take the depositions of witnesses attending before them with all due expedition, so that, as the law humanely observes, they "may not be exposed to any vexatious delay or unnecessary detention from "their respective homes and employments." This law does not authorize the district-Moonsiffs to give batta; but by Section 20, Regulation VII. A. D. 1816, made expressly for the guide of punchayets, it is ordered, that the batta to witnesses attending to give evidence before a district punchayet shall be paid daily, under the orders of the district Moonsiff, by the party on whose behalf they may respectively be summoned, each witness being deemed "en-"titled" by the law to be reimbursed for his attendance in this duty, by the receipt of "not less than one anna per diem," or more, if the Moonsiff determine the same just, in reference to the situation in life of the witness, because, on the very same principle, the reimbursement may appear just in both cases, and because the spirit of the law is evidently more for lessening the costs before punchayets than before district Moonsiffs. The omission of a like authority in the law for the district Moonsiff, wherein the effect of delay is acknowledged, is not presumed to have been intentional, but rather arising from the excessive difficulty of concentrating into "one" statute all the points of practice which are applicable to a department, as has been attempted according to the preamble.

Whether, under the omission, it be necessary to hold a somewhat different regard to the state of witnesses summoned by the district Moonsiffs, I shall not here presume to state. It has been represented as one of the points on which those officers hold doubts as to the rightful manner of proceeding. There may be cases, however, in which witnesses being summoned before the illness of a Moonsiff began, delay might be caused to them. A view cannot be accurately formed of the collective numbers who may be supposed liable to be in attendance before a district Moonsiff, and therefore requiring some shelter in the courts, until the effect of the new laws be more experienced. If the costs thrown on the proceedings before the ordinary courts of the Judge of the Register and Sudder Aumeens can have the power of making persons, particularly debtors, who place all their hopes on delay, submit to arbitration, because it is accounted by some an expeditious mode of settlement, the number of trials which the Moonsiff must examine in person will be diminished, otherwise by the native Commissioners, before whom debtors for above ten rupees can be summoned, being reduced to seven, it may be reasonably expected, from actual experience with several times the number of select Commissioners, that the files of each of the seven will contain a large number of cases long dependant, and the number of people who will be in attendance, and have to find room and shelter in each court, will become at times very considerable. There are now, it may be repeated, no professional Vakeels publicly examined in knowledge of law, each single person of whom could represent many, or as Blackstone, when teaching of juries, states "forty clients;" and if honest, one of the qualities on account of which they are selected, probably with less expense and with more efficiency

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than an unpractised individual, the whole of whose costs while from home fall on his employer. Honest and able conduct in practice, and the legal responsibility under which the fixed Vakeel is placed, create a confidence, which the unpractised and less responsible private person seems less fitted to attain. This one will seldom be trusted beyond the presence of his employer; and thus, if parties employ Vakeels under the present system, the number in attendance may frequently be doubled.

The greater portion of the persons above alluded to are, however, formed of those who voluntarily place themselves in the situation, from which any delay or inconveniences to vex them may arise; and even the witnesses, though constrained to attend, are generally, in some degree, interested in the transaction. It may not, therefore, be deemed equally necessary, for the cares of the Government being humanely directed to the accommodation or mere shelter from the weather of these as of the principal or more intelligent inhabitants, to render whom useful and respectable the new system employs them in administering justice, for the purpose of diminishing the expense of litigation. To the calculation made by the Legislature I respectfully bow, and trust I shall not be transgressing, by showing how the law may nevertheless affect many Subjects of the State, for the argument is necessary to support the proposition which I am now making, for some buildings being granted for their accommodation, when assembled by order of the State on such duties.

I trust that the Right Honourable the Governor in Council will pardon the confession, that after having assayed the calculation in various manners, some doubts have still appeared in the accounts, as to how the trial and decision of suits, particularly small ones under punchayets, are a less immediate cost to the individuals employed, and collectively of less future cost to the resources of the State, than the former system. The same opinion is, however, acknowledged by Section 3, Regulation XXI. A. D. 1802, still remaining in greater force as a rule to a zillah Judge than the new law of punchayets. If he assembles an arbitration, he is to be ruled by the above law, while he cannot command the presence of arbitrators on the new plan. Until the inhabitants evince confidence in village punchayets, whether it ever will be accomplished may still be allowed to be doubtful. The operations of punchayets have never been stopped, except through the disrepute into which they have, through some causes, probably not unessential to the form of trial itself, fallen.

Village punchayets may more affect the revenue of Government, by congregating all those interested or curious about the difference as spectators or actors in the show. Instead of going forth of early morn to the field, many inhabitants, each day that litigation is to take place in the village court, may reckon on the day being lost to the labours of agriculture. My present object being, however, the adequate shelter and accommodation of those commanded to attend as members of punchayets, my reasoning will, in the present instance, be limited to the regard of punchayets before district Moonsiffs, superintending jurisdictions of such great extent each, as must be the consequence when a zillah, until of late years divided into seventeen and even more aumildaries or divisions, for the collection of revenue, is divided into only seven jurisdictions of this species.

The public and private expense of an administration of the law, through punchayets, before district Moonsiffs, probably, as soon as the distance brings it beyond the circle wherein the punchayet may so much affect agricultural industry, begins to keep a progression in magnitude, according to the length of road which each member has to travel, and thus might possibly be one-third less productive of public and private cost, if the jurisdiction were half the size. It might be decreased, by one set of members serving, as one set of jurors at the assizes, for several trials.

Under the present rules, the costs of punchayets do scarcely affect the litigator; but though they be not summed up in the account which the unjust litigator has to pay, his act still originates the whole, whether it is found in costs to the state from stoppage of occupations, or in the several personal inconveniences of a person being called sometimes at the unseasonable times, of which some mention has been made, from his family, or in the actual charges or

or fatigues of travel, or the extraordinary charges of a residence from home, or attendance and labour taken gratis in court. The five, seven, nine, or eleven members of the punchayet, have much previous duty to perform, and are inevitably to be detained longer than the few witnesses. These are not always required; and though, like these, the members of the court are not declared to be legally entitled to reimbursement for their trouble, cost must have assuredly been occasioned to them, exactly on the same principle as costs are shown by the law to happen to the witnesses, and on the same principle be also greater per diem, with the same reference to situation in life. Thus, observed Blackstone, "the most troublesome and most expensive at-"tendance is that of jurors and witnesses." In trials by jury, however, the detention of a juror for a verdict can only be a few hours longer than that of a witness.

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There might be shewn numerous instances, wherein the members of a punchayet would have to attend from double or treble the distance that the citizens of Cuddapah would have to travel, if cited before the nearest Moonsiff at Cumulapoor; but they have, in all cases of the sort, to travel about thirteen miles, or a moderate day's journey for the healthy, and sufficient for two days' journey for the infirm, particularly if they can only afford to travel on foot. While having before me the preamble and Section 20 of Regulation VII. A. D. 1816, it may be allowed to estimate the cost of each principal inhabitant cited to act as a member at four annas per diem; if so, this sum is to be daily multiplied by the numbers five, seven, nine, or eleven, to calculate the extraordinary charge of a collective body of judges. This was formerly thought so evident, that the law, in Section 3, Regulatiou XX. A. D. 1802, provides for referring the decision of cases under two hundred rupees to one arbitrator; and while a friend, who is in the mutual confidence of both parties, can quickly effect a good understanding between the two, five such are not frequently found.

The cost of the Moonsiff, or the same cost which until lately has been found to remunerate a Commission, is still incurred. The sum of four annas will not repay a man of rank, who finds it necessary to use a conveyance; and no ranks of persons are exempted, as is the case of jurors, when officers of courts are exempted, either on account of public or private duties, by the letter of the law. Even the law officers of the court, or the Sherishtadars of revenue, or what would produce greater public loss, the custom officers, may be liable to be summoned in their due turn, however greatly the loss of so much time and so much labour of officers so highly paid would be costly to the Government, who paid for while it lost their important duties. Thus, besides the personal charge and fatigue of the officer, if the revenue Sheristadar of this zillah, the example of the highest officer is taken, for it will elucidate the question in regard to all others, whether Aumildars, law officers, custom Gomastahs, and the like, the loss of the Government in his daily pay would be five star pagodas. He probably could not travel, being, as a man of high cast, obliged to be accompanied with a Brahmin to cook his food, and other domestics, under two rupees each day.

Though these are not costs chargeable under the new system to the litigators, they are caused by the litigation, whether the member of the punchayet be of the rank to render the one anna or the two rupees costs necessary to the traveller. In respect to the Sherishtadar, it would probably seem unnecessary to represent the loss of the five pagodas as grounds of any commiseration to his case. If batta were given to public servants called in their turn to these duties, it might only increase the loss of their employers, by becoming an inducement to delay their return to public labours; but in the case of a "most "respectable" merchant, banker, or other professional man, who could gain by industry five pagodas, which he must lose if constrained to quit his occupation, the whole loss of the five pagodas and two rupees per diem might, in just argument, be laid to the moral responsibility of the litigation, and the cost of the single member would amount to nearly seventeen star pagodas, though the trial was finished, which can seldom happen, in one day; that is, one day's journey to the station, one detention, and one day for returning home. The same expense would occur, whether the subject of dispute be

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small or great. The cost of the merchant, and his four, six, or ten companions, would be the same, if suit was only made for seventeen rupees. Through a suit for the recovery of this small sum, the sick or dying patients of a native doctor, summoned away from his charge, would remain without medical attendance, perhaps at the most urgent moments, when his presence might secure the recovery of their health, and the re-establishment of happiness to grieving families.

Because, last year, more than five thousand three hundred suits were filed in this zillah, I shall presume there may be yearly filed at a future period six thousand. The decision of all these, as the law seems to desire, by punchayet, would, if no second punchayet happened, at the smallest legal tally (that of five) require, exclusive of the Moonsiff, the parties, and witnesses and others, the yearly attendance of thirty thousand persons, or more than the one-tenth of all grown up and effective males in this zillah or country, to be in a greater or smaller degree called off from those occupations by which they live. All the trials before an assize in England may not take up the time of a single punchayet in general; yet, to provide against cost, it has been enacted that the sherif call, for the trial of all issues at the same assizes, not less than forty-eight, nor more than seventy-two jurors, in any one county, the largest number being each year only one hundred and forty-four. The resources of any state are only composed of a portion of the collective gains in it, and chiefly of its grown up male Subjects. In English law a female may be an arbitratrix, and I therefore do not presume to affirm, that all in punchayets must be males; but the larger gains are generally the lot of the principal and more intelligent inhabitants, and as punchayets are by law to be formed of these, the consequences of so many being kept from employ might be calculated as much beyond the average of one-tenth of the general income during the time thus passed. Tallies of eleven would require the absence of sisty-six thousand persons from home during the year.

Probably the number of the vulgar, such as Chuklars, Puriahs, Coorchawars, Wuddawars, Kasaiyees, and others, who from utter want of intelligence might be deemed incapacitated for employ on such duties, may be found to be even nine-tenths of the males. In Athens, whose populace has been peculiarly noted for the liberal sciences, the freemen were found to be as one to twenty of the servants, slaves, and the degraded classes. There appears, however, some opposing qualities in the provisions of the law; and though I venture on such a remark with great hesitation, from respect for all ordinances of the legislature, by Clause 2, Section 3, punchayets must be composed of the most respectable inhabitants, but by Clause 4, if the parties are of different castes or professions, an equal number of the caste or profession of each are to be chosen. Thus, if the plaintiff were a Chuklar and the defendant a Curnum, there should be two Chuklars and two Brahmins. I shall not remark on the incongruous materials of such a court. The Brahmins would not consent to sit with the Chuklars, and two Curnums would, if they did consult with the two, soon prove too powerful. But if the whole law stands, it were scarcely possible to form a punchayet under it, because no one of the most respectable inhabitants of the district belongs to the caste or profession of Chuklar, or to the Pariah and some other castes and professions. In common arbitrations, or even those of clause sixth, such persons could act with less objection, because, as the law observes, the arbitrator is appointed by the choice of the parties themselves, and it is their folly to choose an improper person. But the public officer is to appoint in the present case, and he has two important functions to attend to: first, the obtaining for each case fit and legal or "intelligent judges;" secondly, to equitably divide them amongst the intelligent head-men in his jurisdiction.

If there can be found on the intelligent of the district, and village Moonsiffs and all the higher public servants, all Somiagies, all doctors, &c. being taken into the account, thirty thousand grown up males fit to sit on punchayets in this zillah, and the punchayets, the witnesses have frequently to be summoned from a distance during the interval, took, on an average, including sometimes the necessity of one, two, or three, or four days' journey to the station, and as many back, each man but one week from his usual occupation, it would then be one part in each fifty-second, or an impost of nearly two per cent. of the principal

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principal of all income, in addition to costs, of which a part would directly fall on Government in pay of servants. By Regulation XXI. A. D. 1802, the public officers of the court are exempted from arbitrations, though not in the new Regulations. The direct loss to Government might be greatest in the Custom department, but some would indirectly occur in its share of the gain of each of the principal subjects of the realm. If any one merchant's trade was obstructed, and by his being called to the duties of the punchayet he lost the favourable opportunity of setting off in a journey for some commercial transaction, a proportion of this also would finally devolve on the state. It will also always share in the expense of any unnecessary detention, in consequence of the proceedings of punchayets being delayed through want of accommodation in the public cutcherries.

The before-mentioned average of one week will certainly not be deemed beyond the term which is probable (it is, indeed, the term which may be required to prepare answer after hearing the plaint) according to human affairs Hitherto I have only remarked on the delay which may arise through absence of the single district Moonsiff, and have confined my remarks on this subject chiefly to his absence, through the uncontrollable consequences of ill health, without mentioning the frequent necessity of his absence, if he must personally superintend the sale of effects in execution of his decrees, or can be employed in the sale of distraint property; but as all men, whether plaintiffs, defendants, witnesses, or arbitrators, are as human beings liable to the incapacities of sickness, a system in which so many plaintiffs, defendants, and others, must personally attend, will, in a like proportion, become subject the more frequently to such delays arising from ill health. The sickness of the members will, and the law can scarcely provide a remedy, cause delays in the sittings of the courts, though the law even ordains that no member, though he receive intelligence of some fatal accident to his own concerns, or of the desperate state of a father or mother, shall venture to depart until the decision be recorded.

If the provisions of the law are adopted for the necessity of ten punchayets being ever assembled, and waiting or sitting at one time at each court of a district Moonsiff, it becomes perhaps necessary for the Government, with a view to provide against its own loss, as well as with a view of humanity to the people constrained to give attendance, that the room should be sufficient to admit of so many assemblages of persons conducting business without obstructing each other. Small rooms, as in dwelling-houses of the natives, would probably not only afford concealment for corruption, but may not be such public cutcherries as the law requires. Calculating only a single plaintiff, a single defendant, one witness, and five members, the public cutcherry should be fitted to contain more than eighty persons, and to afford sufficient room for the unobstructed pursuit of their separate concerns.

It were desirable that, on any person, particularly the more venerable and infirm members of the community, coming off a journey, which he by public command alone would have ever attempted, should be immediately able to find shelter in the public cutcherries, until his attendants contract with some inhabitant for his lodging. "Old men above seventy, persons continually "sick or ill at the time, are exempted" from juries by English law, and the sheriff is liable to pay damages to the party grieved if he summon them. On the commencement of the effect which the legislature seems to desire or the popularity of trial by punchayet, these consequences may not be immediately felt, for the Moonsiff will commence by enforcing the attendance of the more intelligent people of the neighbourhood; but the calculations on the case show, that as litigation increases, the members must be cited from a greater distance, and their attendance more strictly enforced.

However, to re-establish the good repute of punchayet, after even punchayets of arbitrators, voluntarily chosen, have gradually of themselves lost the estimation of the people, the duties of the office should be rendered as easy as circumstances can justly permit. The expedition of this mode of trial depends on the ready attendance and exertions of the people chosen, and its justice on their calm attendance to the perplexed cases on which they may be summoned to decide. Indeed, the law ordains that the burthens and toil of this species of administration shall be equitably placed in their turn on all, and no one is to be

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more frequently called than others of those who are really fitted. On these arrangements the popularity of those means of administration greatly depends. The bailiff of Middlesex "acknowledged to have received in some years se- "venty pounds." He was accused of excusing "those jurors who paid him, "and of summoning more frequently those that refused to do so;" he affirmed, he only received it as a Christmas-box, as a mere tamboolum or a reddee fee, but the court fined him two hundred pounds: and care must also be taken that the district and village Moonsiffs do not thus abuse their powers.

Continued thought on the subject forces other points relating to the matter on the mind; but I trust that I have brought to the notice of the Right Honourable the Governor in Council sufficient reasons for the proposition which I now submit for the accommodation of these collective bodies of people, brought together by public command, for public duties. Yet that none of the remarks which the subject has necessitated me to venture, for showing the personal inconvenience to which they otherwise may be subject, will appear unappropriate to the occasion, I shall conclude by submitting to the consideration of the Government the propriety of the Revenue department allowing any public buildings, not in immediate use at the seven stations before mentioned, to be made use of for the accommodation of the district Moonsiffs, lest they may not be able to obtain, in some instances, a better place for temporary public cutcherries or court rooms, than a Bukkal's verandah, and that the Judicial department have the use of such buildings, until those which the Right Honourable the Governor in Council may determine to construct be completed.

Wailpad, Nosum, Tungatoor, and Marhapoor, would be selected as stations, when Cumulapoor, Vempullee, and Kalispad, might not be so, in dividing the country into a greater number of jurisdictions; but at the same time, from these being smaller towns, lodgings where those cited on punchayets can put up are found with greater difficulty, and this great objection immediately arises, when, from views of economy, I should be desirous of first recommending the construction of courts at the four stations most likely to be permanent. I, in consequence, after having made this exposition of the circumstances of the case, shall not venture to trespass further on the attention of the Government, and without estimating the expense of the arrangement, await its orders in regard to the construction of public buildings, or to any other arrangements which may appear to be adapted for accomplishing the purpose of the law which requires "public cutcherries."

I have the honour to be, &c.

(Signed) THO^s. NEWNHAM,
Judge.

Cuddapah, Zillah Court,
9th December 1816.

SECRETARY *to* GOVERNMENT *to* COMMISSIONERS,
Dated 30th December 1816.

To the Commission for the Revision of the Judicial System.

Letter to Judicial Commissioners, 30 Dec. 1816.

GENTLEMEN:

I am directed by the Right Honourable the Governor in Council to refer, for your consideration and report, the accompanying copy of a letter from the Judge of the zillah of Cuddapah, dated the 9th instant.

I have the honour to be, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George, 30th December 1816.

COMMIS-

COMMISSIONERS *to* SECRETARY *to* GOVERNMENT,

Dated the 5th March 1817.

To the Chief Secretary to Government of Fort St. George.

SIR:

Report of Judicial Commissioners, 5 March 1817.

1. WE have now the honour to report on the subject of the Judge of Cuddapah's letter of the 9th December, transmitted to us with Mr. Secretary Hill's letter of the 30th of that month.

2. The Judge's letter enters into a comparison of different points of the old and new Regulations, the evil likely to result to almost all classes, but more especially to the old and infirm, the illiterate, and the widow and the orphan, from the district Moonsiffs not having a regular establishment of Vakeels; calculates the proportion of the male population likely to be every year assembled at district punchayets, and of individual labour and income which will be thereby lost; states what may be lost to the public by Judicial and Revenue servants being summoned to attend punchayets, and details his sentiments on a variety of other cases.

3. There are many difficulties looked forward to by the Judge, such as the summoning of the principal Judicial and Revenue officers to sit on punchayets, and Bramins and Parias to sit on the same punchayet, which never can occur, and to which, therefore, it can hardly be necessary to say much in answer. The main object of his letter seems to be, to recommend the payment of batta to witnesses in cases tried by the district Moonsiffs, the appointment of regular Vakeels to the district Moonsiff's court, and the erection of cutcherries or court rooms, at the expense of Government, for the use of those Moonsiffs.

4. With respect to the payment of batta to witnesses in suits before the district Moonsiff, it was not deemed necessary to make an express provision regarding it, the Moonsiffs being directed, in Section 13, Regulation VI 1816, in points not expressly provided for in that Regulation, to observe, as nearly as may be practicable, the rules prescribed for the guidance of the zillah courts, in the trial and decision of civil suits; but in punchayets it was necessary to make an express provision regarding the rate of batta to be determined by the district Moonsiff, instead of the members of the punchayet, there being no other rule to go by.

5. In excluding regular Vakeels from the district Moonsiff's court, the Regulation has followed the principle noticed in our report of the 15th July 1815, that they should be excluded from all courts of native jurisdiction. The Judge observes, that " every merchant has not a servant or relative in whose ability " he can place confidence." If he has not, he will attend himself. The instances will be rare, in which he can neither send such a confidential agent nor attend himself. The Judge also remarks, that the " classes entirely illiterate, " to which may be added the fatherless and widow, and the aged, who cannot " travel, have very little capacity to plead in person." It does not seem necessary that all these persons should retain able pleaders. The greater proportion of them will, probably, get their suits settled in their own villages; and should some of them have recourse to the district Moonsiff's court, and employ as their Vakeels, instead of attending in person, relatives not endowed with greater capacity than that which has fallen to their own lot, it can only be ascertained by experience, whether this circumstance will or will not produce greater inconvenience than that which arises from the employment of professional Vakeels.

6. The Judge supposes, that much inconvenience will be experienced from all proceedings being liable to be delayed, by the district Moonsiff being, with all human beings, " subject to sickness himself, by attendance at the sick bed " or funerals of near relations," and from his not being exempted from nomination by the village Moonsiff to the village punchayet; and that the inconvenience will be the more felt, " as the present system, and small number of " Moonsiffs do not admit of the zillah Judge withcalling the reference, and " sending the case, on the most uncontrollable of the above accidents (the sick- " ness of the Moonsiff), as heretofore, to a neighbouring Commissioner."

7. We

Report of Judicial Commissioners, 5 March 1817.

7. We see no cause to apprehend any bad consequence from the accidents which the Judge enumerates. The small number of district Moonsiffs, compared with the former establishment in some districts of native Commissioners, will be fully compensated by the creation of at least a thousand village Moonsiffs in each zillah, and the sickness of a district Moonsiff will therefore, most likely, produce as little interruption to the administration of justice, as that of the native Commissioner under the former Regulations. The absence of the district Moonsiff, by his nomination to a village punchayet, is a case that can never arise, because, though not prohibited by the Regulation, it is virtually so by the custom of the country, which excludes the officers of Government from sitting as members of a punchayet.

8. The proposition of the Judge for the erection of cutcherries, or court-houses, at the four stations of district Moonsiffs, which he thinks most likely to be permanent, seems to us to be at present rather premature. He recommends this measure chiefly upon the assumption that the cutcherry should, at the least, be large enough " to contain more than eighty (persons)," and to afford sufficient room for the unobstructed pursuit of their "separate concerns." He states, that the native Commissioners used to employ their own dwelling-houses as cutcherries, but that the district Moonsiffs have no houses of their own at the stations to which they are appointed.

9. Although the Moonsiff has no house of his own, he will certainly find a dwelling-house, and he will, like the native Commissioner, be able to make it answer as a cutcherry. Should it be too small for this purpose, he can easily make it large enough, by the erection of a shed, at a trifling expense. But this can hardly ever be necessary, as there is scarcely a principal village in which a district Commissioner ought to be stationed, in which a choultry, or pagoda, or some other public building, may not be found fit for a cutcherry. We are therefore of opinion, that no expense ought, at present, to be incurred for the erection of new buildings as cutcherries, but that the Collectors should be directed to allow the district Moonsiffs to employ as a cutcherry any unoccupied public building, at their respective stations, which may be fit for that purpose. The number of persons which it will be necessary to find room for in the cutcherry can be ascertained only from experience: and should it then be found absolutely necessary to erect any new cutcherries, they can be made of the size which experience has shewn to be necessary.

10. The Judge supposes that six thousand suits may be annually filed in his zillah; and he proceeds to observe, that " the decision of all these, as the law " seems to desire, by punchayet, would, if no second punchayet happened, at " the smallest legal tally, that of five, require the yearly attendance of thirty " thousand persons, or more than one-tenth of all grown up and effective males " in this zillah or country, and by tallies of eleven, would require the absence " of sixty-six thousand persons from home during the year." To these calculations it may be answered, that the foundation of them is erroneous, for the law requires no such thing as the decision of all these suits by punchayet. No suit can be referred to a punchayet, but at the joint request of both parties; and from the difficulty of bringing plaintiff and defendant to agree about the settlement of their disputes, the probability is that more suits will be decided by village and district Moonsiffs than by punchayets.

11. The Judge endeavours to show the loss that will result to the income of the community, and to the revenue of Government, by the assemblage of such multitudes by the operation of punchayets; and he says that " the village " punchayets may more affect the revenue of Government, by congregating " all those interested or curious about the difference, as spectators or actors in " the show, instead of going forth of early morn to the field." We confess that we feel none of the alarm which is here expressed about the injury likely to be sustained by the revenue from village punchayets. The Judge himself observes, in another part of his letter, that punchayets have fallen into disrepute. If this is the case, they will be too seldom resorted to, to have any influence on the revenue. But allowing that they should recover their reputation, and become ever so popular, the business of the country could never require more, upon an average, than one punchayet yearly for each village; and

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and even this could not at all affect the revenue. A punchayet is not a new sight in any village. When it was in use, it was not found to congregate the inhabitants "about the show, instead of going forth of early morn;" nor is there reason to apprehend that it will be more likely to produce this effect now.

12. The Judge, in remarking upon Clause 4, Section 3, Regulation V. 1816, which provides that when the parties are of different casts or professions, the punchayet should be composed of an equal number of the cast or profession of each, observes that, if the plaintiff were a Chuckler and the defendant a Bramin, "there should be two Chucklers and two Bramins" on the punchayet; and that as the Bramins would not sit with the Chucklers, if the whole law stands, it were scarcely possible to form a punchayet under it. The Judge's reasoning seems to be founded upon the belief, that the Chucklers and Pariars are included in the four casts into which the Hindoos are divided. But they do not belong to either of them: they are usually called the fifth cast. They are regarded as unclean and unfit to sit with any of the others, so that when any individual of the fifth cast has a claim against a person belonging to any of the Hindoo casts, it must, by the usage of the country, be decided by a punchayet chosen from among the four casts. No person belonging to the fifth cast can be a member of it: when, therefore, a Chuckler brings a suit against a Bramin, the punchayet will be composed of Bramins and other casts of Hindoos; but if he objects to the Bramins, it will be chosen from the remaining Hindoo casts. It was deemed unnecessary to prescribe by Regulation, that Chucklers and Pariars should not be (what no Regulation could possibly make them) eligible as members of punchayets.

We have, &c.

(Signed) THOMAS MUNRO,
First Commissioner.
GEO. STRATTON,
Second Commissioner.

Madras, 5th March 1817.

SECRETARY *to* GOVERNMENT *to* COMMISSIONERS,
Dated the 15*th April* 1817.

To the Commission for the Revision of the Judicial System.

Letter to Judicial Commissioners, 15 April 1817.

GENTLEMEN:

1. I AM directed to acknowledge the receipt of your letter of the 5th ultimo.

2. As you are of opinion that the objections stated by the Judge of the zillah of Cuddapah, against several provisions contained in the new Regulations, will not be practicably experienced, the Governor in Council does not consider it necessary, for the present at least, to adopt any measures with the view of obviating those objections. It is the wish of the Governor in Council, that the defects and omissions of the new system (for such, it is presumed, there must be in any new system of equal extent) should be well ascertained, before any remedy is applied to them. The Governor in Council, therefore, acquiesces in the explanations which you have afforded.

3. I am, however, directed to express the regret of the Governor in Council, that the style of your animadversions on Mr. Newnham's letter is, in some respects, liable to objection, as not tending to forward the temperate and unprejudiced discussion of questions of a public nature.

I have, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 15 April 1817.

REPORT *of* COLONEL MUNRO,
Dated the 8th February 1817.

To the Chief Secretary to the Government, Fort St. George.

SIR:

Colonel Munro's Report, 8 Feb. 1817.

1. I ARRIVED at Myaveram, in Tanjore, on the 12th of January, where I found the Collector's cutcherry. As my chief object was to learn what progress had been made in the appointment of the heads of villages required by the Regulations, what were the obstacles by which its execution was impeded, and what were the means by which they could be removed, I applied for information on these points to the acting Collector, who furnished me with an abstract statement of all that had been received respecting them.*

From this statement it appears, that the whole number of villages in Tanjore is 6,011
That Potails were already appointed, and lists sent to the Tehsildars, for 4,108

And that for the remaining 1,903
no Potails had been yet appointed, owing to various causes, which are inserted opposite to the totals of the several classes of which these villages are composed.

2. The first of these classes is composed of Yehabogum villages, or villages of which one, two, or more, are the undivided property of one Meerassadar, and in which the Meerassadar has no house in any of his own villages: the number is 253
The second class is composed of villages of the same description, in which Meerassadars have no houses, but reside in other villages of their own, in which they have houses.. 249

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By Section 3, Regulation IV. 1816, no person who does not "generally "reside in the village" can act as Potail of it, and it may, therefore, be said, that the Meerassadars of the above villages are excluded from the office. Where the absent Merassadar employs a resident manager, this person becomes the Potail. Where the manager is temporary, residing only for a few months during the season, he might act as Potail while he resides; and during his absence, the person in the village, under whose authority the village servants remain. Such villages are usually so small as scarcely to deserve the name of hamlets, and it is of very little importance who acts as their Potails. Where the Meerassadar resides in one of his own villages, and possesses one or more adjoining to it, they might be considered as one, and he might be appointed Potail of the whole. Something very similar is common in other districts, where many of the villages consist of one principal, with five or six dependant villages under the same Potail, and where even principal villages, after having fallen into decay, and having only a few huts left, are placed under the management of the head of some neighbouring village.

3. The object of the Regulation, in prescribing residence to the head of the village, was evidently the convenience of the inhabitants, by confiding the office to the person most likely to discharge its duties efficiently, and excluding the Zemindar, who lived at a distance and could not attend to them. An aggregate of small villages belonging to a single proprietor residing in one of them, and who manages the whole, ought undoubtedly still to continue under his management as head of the whole. To place new Potails in any of them would be contrary to the spirit of the Regulation, for there is no right or claim to be set in opposition to his. He is the sole proprietor: he is on the spot and is the actual manager, and is both better qualified and entitled to continue in the management of them than any other person.

4. In cases where the sole proprietor of several villages does not reside in any of them, but manages them personally, it may happen that he resides in the situation

* See Memorandum annexed.

situation most convenient for that purpose; that there are no habitations, except a few labourers' huts, in any of them; and that were he even to take up his residence in one of these villages, his new situation might be less convenient than his former one, not only to himself, but to the inhabitants who might have occasion to come to him on business.

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5. The latitude given to the Collector, under Section 3, Regulation IV. 1816, in the appointment of the heads of villages, might, perhaps, enable him, both in the cases above stated and in those hereafter mentioned, to provide Potails, in the manner suggested in the preceding paragraphs; but should the Right Honourable the Governor in Council be of opinion that there is any case to which the regulation cannot be made to extend, the defect may easily be remedied by a supplementary Regulation.

6. The next class of villages in the Collector's list are villages held in shares by the Meerassadars.. 69

All the Meerassadars of these villages having been appointed to other villages in which they have shares, the villages here inserted are left without Potails.

Villages belonging to his Highness the Rajah............................ 140

The appointment of Potails in these will, of course, be regulated by the same rules as in the villages of other Zemindars.

Villages under the management of the Collector, in which the Meerassadars are prohibited from having any interference, by the Proclamation of 1810... 532

The Meerassadars of these villages ought to act as Potails. This arrangement would give them no more power of injuring the revenue than they have at present, as the presence of the servants of the Tehsildar would be a sufficient check upon them. In particular cases, in which it might be deemed unsafe to employ them, one of the cultivating Ryots might act as Potail.

Pagoda villages.. 576
Chattram and Multram villages.. 34
Mosque villages.. 16

These villages are the property of the pagodas, chutters, and mosques, and the headmen of these institutions ought to be the heads of the villages. Many of these villages are likely to be rented, and the renters will then be the Potail.

Villages belonging to the Rajahs, priests, singers, &c. who do not reside... 26
Villages formerly possessed by Kavilgars, now under aumany......... 8

Total number of villages to which Potails are not appointed......... 1,903
And villages to which Potails have been appointed..................... 4,108

7. Since the above statement was first prepared, the assistant Collector has received returns from three talooks, shewing that one hundred and twenty-four uninhabited villages are included in the one thousand nine hundred and three villages without Potails; and when the returns are received from the six remaining talooks, that the number of uninhabited villages will probably amount to about six hundred, and leave only one thousand three hundred and three without Potails. But as one hundred and forty of these belong to the Rajah, and as the greater portion of the remainder is likely to be rented, it is probable that very few, if any, will be left, for which Potails may not be found under the existing Regulations.

8. As it appeared, however, from the returns sent in by the Tehsildars to the Collectors' cutchery, that of the Potails ordered to be appointed many had refused the office, and others, after accepting, had thrown it up, I requested the acting Collector to assemble the principal landholders or Meerassadars of the Mayaveram district, that I might have a full discussion with them upon the subject.

9. The

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9. The meeting lasted many hours, during which time they brought forward every argument they could devise against their being required to act as Potails or heads of villages. When they were desired to enter into particulars, and specify the duties they would have to discharge under the village Regulations, and when it was shown to them that these duties did not differ essentially from those which they had always been accustomed to perform, they had recourse to a general argument, which they urged whenever they were at a loss, namely, that their time was so much occupied in cultivation and finding the means of paying their rents, that they had none to spare for other purposes. One of the principal spokesmen, on being asked how many causes had gone last year to the zillah court from his village, which is one of the largest in the district, answered, " not one." When it was remarked, that the duty of Moonsiff in such a village, where a single petty suit had not occurred in the whole year, could not engage much of his time, he replied, that " the inhabitants had " been restrained by the fear of stamp paper and law expenses, but that they " would now bring their suits to him, as there were no costs."

10. The spokesmen asserted, that the Meerassadars of a village would not agree to any one of their own body being head of the village, as it would enable him to oppress them, and under some pretence or other to dispossess them of their lands. They objected to taking charge of the village police, because the Talliar's grain allowance was not made answerable for thefts; because the thieves who commit the greatest depredations on their grain are the labouring coolies of the village, and that if they took up any of them for theft the rest would refuse to work when wanted, and injure the cultivation; because the loss of valuable property stolen is not now made good, either by the Kavilgars or the Government; and because they would themselves derive no advantage from undertaking a troublesome duty. They said, that notwithstanding all this, they would be willing to act as Potails of their villages, if the amount which they now paid, on account of kaweli fees, were remitted, or if the old system of paying a share of the crop, in place of a money rent, were restored.

11. I explained to them what they well knew, that they had derived many advantages from the Company's government, by the abolition of some heavy taxes, the increase of their share of the crop, the extension of their backyards and their exemption from assessment, the improvement at a great expense of the irrigation of the country, and the facility given to the export of their grain, and that, with respect to the duty being troublesome, and their having no compensation for it, the duty did not differ from what they had been accustomed to under the government of the Rajahs, when they received no remuneration for it from the public more than they do now, because it was supposed that the desire of authority, and the convenience of having the command of the village servants, would always be sufficient to induce some one of the Meerassadars to act as the head of the village, and that the rest were bound, where some allowance, whether temporary or fixed, was deemed necessary, to raise it by a contribution among themselves. The spokesmen, in answer to every thing that was said, always returned to the subject of the remission of the kaweli fees. They were told that this had been long ago settled after mature consideration, and could not be revived.

12. It was evident, from the whole of their arguments, and from each individual concurring, without the slightest variation, in every point with the two or three principal speakers, and from all asserting what they know to be unfounded, namely, that no Meerassadar had superior authority to another, that they had preconcerted their answers, and that they acted under the influence either of some of their own number or of some leading men in the country who directed them. I thought it best not to urge them further on the matter, lest it should have given rise to the belief that their acting as heads or Potails of their villages was regarded as a point of so much importance, that if they held out for a time in declining the office, Government would be disposed to grant them an allowance in money or land, as the price of their accepting it. I therefore told them, that I had nothing to do with the appointment of Potails, as it was a duty belonging entirely to the Collector, and that my business was merely to ascertain whether they had any reasonable objections to offer to the

measure

measure in contemplation, and whether there was any local circumstances which should render it less applicable to Tanjore than to the neighbouring countries.

13. I thought it advisable to have no more meetings with bodies of the principal inhabitants, in order to hear their opinions respecting the office of Potail, to avoid every appearance of having any solicitude for its establishment, and to confine my inquiries chiefly to the nature of the internal village administration during the native Government, and as to how far any of the head inhabitants had a share in it, similar to that which is usually assigned to Potails in other districts. With this view I examined every person I met with, both on my way to Tanjore and at that place, from whom there was any probability of obtaining correct information. Among them were village servants, and proprietors both of lands and whole villages, and several persons employed by the former Rajahs before the transfer of the country to the Company.

14. The accounts of these people, though they differed in many points, concurred in the main one, that in villages held by a number of proprietors or Meerassadars, there was one who, under the title of Natumkar, exercised authority over the rest in all public concerns of the village It appeared, also, from their statements, that the internal administration of Tanjore differed very little from that of other provinces under their native Princes. The country was divided into four soubahs, which were subdivided into tehsildaries: these again were subdivided into smaller districts, under Naub-Monigars, having under them the Wuthum-Monigars, who had each the charge of three, four, or five villages, according to their extent, and managed their affairs with the help of the head Meerassadar or Natumkar. All these officers, including the Natumkars, exercised authority in their respective gradations, not only in revenue but in police and judicial matters. The authority of each rank was undefined by any written rule, but still it was known by the custom of the country how far it could go.

15. The Natumkar of the village (head Meerassadar) had authority over all the village servants. He alone gave orders to them: if any other Meerassadar wanted the carpenter, smith, or any of the servants, he applied to the Natumkar. All orders from the Tehsildar or Wuthum Monigar were carried into effect by the Natumkar. The Natumkar received these orders, either in writing or verbally, from the Monigar. If the Natumkar happened to be absent when an order came from the Monigar, the Meerassadars, in all ordinary cases, usually evaded compliance with it until his return. He and the Monigar together superintended the cultivation, the reaping, and division of the crops and the collections. The Monigar could not act without the Natumkar, but the Natumkar could act without the Monigar, in almost every case, except when the Government received and sold its own share of the grain. When the Government share was commuted for money, the kists were collected by the Natumkar, either with or without the Monigar; but the money was never entrusted to the Monigar, but was carried by the Natumkar and Shroff to the district cutcherry, if the sum was considerable, or if small, by the Shroff alone. The Monigar did not necessarily attend at the Collections: they were made by the Natumkar in the presence of the Curnam and Shroff, and when the kists were not readily paid he exercised the compulsory means which are usual with the native Governments. In the public concerns of the village, the Natumkar sometimes consulted the other Meerassadars, sometimes not.

16. The Natumkar settled all disputes respecting water and shares of grain. In petty suits, where the parties consented, he either settled them himself or referred them to a punchayet. He was neither ordered to decide nor prohibited from deciding upon them; and if either of the parties, disliking his decision, applied to a higher authority, he was never called to account for it.

17. In cases of petty thefts of grain or other property, he either made the Talliar refund, or stopped his allowances from the village. Where the property stolen was considerable, he made the Talliar give notice to the district Kavilgar; and if he did not discover and restore it, or pay the equivalent, he complained to the Tehsildar.

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18. The Natumkar received an annual allowance from the other Meerassadars, usually in grain, but sometimes in money or in land, of which the rent to Government was paid by them. There was no fixed rate of allowance, every village had its own, which was continued as first agreed upon by the Natumkar and Meerassadar. The Natumkar, in addition to his fixed allowance, received batta from the village whenever he went to the cutcherry, for the number of days he was absent; and he was exempted from all the petty contributions, under the head of batta on account of public servants, which were paid by the other Meerassadars.

19. Besides these advantages, he enjoyed certain village honours to which he attached great importance. He received betel first at all the annual festivals of the pagoda, when the god is brought out in procession: he also received it first at all marriages, and if he happened to be absent his portion was taken out and given in charge to some of his friends, to be delivered to him before any could be distributed to the other inhabitants; and no voluntary contribution could be raised for any village ceremony, until it was sanctioned by his first paying his share.

20. The Natumkar was appointed by the Meerassadars: he was also removable by them; but this power does not seem to have been very generally exerted. His allowances, however, were very frequently withheld when they were dissatisfied with him, but were paid up when the cause of difference was removed. The son of the Natumkar was usually appointed to succeed to the office by the Meerassadars; or if he was unfit, the brother, or some other near relation. If none of them were qualified, one of the other Meerassadars was appointed. The relations, however, did not readily relinquish their claim, for the office was considered as a kind of hereditary property. The Meerassadars availed themselves of the right of appointment among the ordinary class of Natumkars, but among the higher class, who possessed great influence in the villages, the appointment seems to have been little more than a matter of form to confirm the succession, for most of the present leading Natumkars of villages have been preceded in the same office by their ancestors for several generations. In villages under one sole proprietor, he was both Natumkar and Meerassadar. In villages belonging to only two or three proprietors, the whole commonly acted together as joint Natumkars, as it was not necessary in so small a number to select one exclusively for the office.

21. The Natumkar of Tanjore was, in fact, the same as the Potail of other districts, having the village servants under his immediate authority, making the collections and exercising coercion against defaulters, settling petty disputes, stopping the Talliar and Kaweli allowances in cases of theft, and in short directing all the affairs of the village. It may be said, that there was a Monigar placed over him, by whose order he acted; but the Monigar had the management of several villages, and his business was merely to secure the Government share of the produce, to prevent depredations upon it, and to see it fairly sold. Monigars were not peculiar to Tanjore. Revenue officers under the same denomination, or that of Shikdars, Turrefdar, &c. were necessarily employed in all countries, when the public revenue was received in as share of the produce. This took place even where hereditary Potails were most completely established, for the Potail being himself a principal cultivator, could not safely be entrusted with a duty which it was so much his interest to betray. The control of a revenue officer over the head of the village was, in this case, unavoidable; but it was also usual, even where the revenue was paid in money, for the Tehsildars to appoint one of these petty officers to every five or six villages, to look after the cultivation and the collections: but this did not hinder the Natumkar or the Potail from possessing the immediate management of their villages, and exercising authority in all matters, excepting the division of the produce with Government.

22. From what has been said, it is manifest that there is no sufficient cause why the head Meerassadars or Natumkars of Tanjore should not, as well as the head Ryots of other districts, act as heads of their villages. They are certainly not less intelligent nor less qualified for the office. The very circumstance of the Meerassadars of Tanjore being, in general, nearly equal in intelligence, does

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does not prevent their submitting their differences to each other, or to one of their number as Moonsiff, but rather renders it more easy to establish village Moonsiffs and village punchayets in Tanjore, than in districts whose inhabitants are less instructed.

23. There could not have been a finer field than Tanjore, on its transfer to the Company, for the establishment of a body of well qualified Potails. All the materials were ready: we did not use them, and our system, in this important point, is, in consequence, more defective than that of the native Government, because it employed the Natumkars, while all our arrangements have tended rather to throw them into neglect, than to bring them forward as useful instruments of internal administration. It is fortunate, however, that more attention has been paid to the Curnum than to the Natumkar. The raising the Curnum from his dependance on the Meerassadars, constituting him, instead of their servant, the servant of Government, and increasing his pay, is a most material improvement on the old system of the province. But if he was too much depressed before, he is too much elevated now, for he exercises the authority which, in other provinces, is divided between the Curnum and Potail. He acts as a kind of deputy to the Tehsildar, and is placed in authority over all the villages composing his wuthum, and has charge both of the accounts and of the collections, which is contrary to the general principle of his being employed as a check upon the Potail or person who manages the village and makes the collections.

24. It is a bad principle to have no intermediate authority between the Tehsildar of the district or his officers and the Ryot. The convenience, both of the public service and of the inhabitants, requires that there should be in each principal village, or community of smaller villages, one of the body of the Ryots empowered by Government to act as head of the village, to settle petty disputes, and to direct its officers. If, therefore, no Natumkar existed in Tanjore to perform the duty of Potail, the want ought to be immediately supplied. It has, however, been shewn, that there is no deficiency in this order of men in the province. The minute subdivision of Tanjore into villages, renders its villages, on an average, smaller in extent of territory, of population, and even of revenue, than those of other districts. The greater or less difficulty in the management of a village is occasioned by the population and extent of territory, not by the amount of revenue, for in two villages, where the territory and number of Ryots paying revenue are equal, but the revenue unequal, and ten times greater in the one than in the other, it is not more difficult to collect ten thousand rupees in the rich than one thousand in the poor village. In fact, the richer village is generally the easiest to manage of the two, because it is less liable to failure, and does not require the same attention to balances, tuckavy, and other details. The average of the territory and population of the Tanjore villages is not more than a fourth or a fifth of that of the villages in other districts, so that, in Tanjore, the duty of the head of the village is not only more easy, but, as has already been observed, there is a greater body of men well qualified to discharge it, than perhaps in any other province under the Madras Government.

25. The Collector should be ordered to direct the Natumkars or head Meerassadars to act as Potails. To take the opinions separately of all the individuals composing so numerous a body, as to their being willing or not to undertake the office, answers no purpose but to raise difficulties and occasion delay. Indeed, such opinions cannot be obtained; for it is well known, that there are always a few leading men in each district, by whom all the other heads of villages are guided, in rejecting or accepting any arrangement proposed to them, in which their own private interest is not deeply concerned, and that where this interest is not involved, the heads of villages give no opinion of their own, but follow implicitly that of these leaders. In imposing new taxes, or in changing a division of produce to a money assessment, it is proper to consult fully with the heads of villages; but in the mere modification of a duty which they have long discharged, or in the curtailing or adding to it, such consultation can only be productive of mischief. It encourages the leading men to suppose that, by holding out and instigating their followers to do the same, they may make terms and obtain some advantage as the price of

their

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their compliance; and it induces them to do this, even where they are not averse to the measure proposed. The Natumkars are not called upon to execute any new duty. It has been already shewn, that they directed the police servants and settled petty suits. The amount of these suits is now defined, which was not the case before, and is so far a novelty, but the innovation is not a serious one. It is not more so than their being placed under the Curnums, formerly their own servants; and their being desired to resume a part of their former power, cannot surely be harder upon them than the loss of it.

26. It may be asked, as was done by the head inhabitants in their meeting with me, what remuneration the Natumkars are to have for discharging the duty of heads of villages. It may be answered, that none was granted by the native Princes, because it was known that the favourable assessment of the Meerassadars ought to enable them to defray the expense of the Natumkars as well as of the Curnums; that the Meerassadars are now more favourably assessed than formerly; that their back yards have been extended and declared rent free, as well as those of their tenants and labourers, which enables them to make better terms with them; that they have been relieved from several heavy extra taxes, which were abolished at the recommendation of Mr. Harris, and among the rest, from the district charges (Naut Chillawn) which, in fusily 1210, when collected at only four instead of fifteen to twenty gold fanams per one hundred cullums, yielded Star Pagodas 23,931 28 44; that they still pay the Natumkar's batta whenever they go to the cutcherry; that they have discontinued the payment of the allowance, only because the duties of the Natumkars are now chiefly executed by the Curnums, and that they are as able as at any former period to pay that allowance, whenever the Natumkars resume their functions as heads of villages.

27. Whether it may be thought expedient to let the Natumkars settle the amount of the allowance with the consent of the other Meerassadars, or to regulate by authority the amount to be paid by the Meerassadars, or for Government to bear the whole, or a part, of the charge itself, may be a subject for consideration on a new settlement, but the discussion of which, at present, might be prejudicial to the public service. As far as such information as could be acquired during a residence of a few weeks enables me to judge, I am inclined to think that the charge ought to be borne by the Meerassadars. It is true, that in other districts it is borne by Government; but there the Ryots have not the same advantages. They are already so fully assessed, as to be unable to contribute to the maintenance of the heads of villages. But in Tanjore, the Meerassadars formerly paid the heads of villages or Natumkars, and their assessment is so favourable that they may still bear this charge, and yet be much more lightly taxed than the Ryots in other provinces. There seems to be no objection to applying towards the defraying this expense any saving which may arise from the new police system; but whatever allowance may be assigned to the Natumkar, it would be advisable that it should be confirmed to him, and that he should be considered as the chief village servant of Government. Besides the useful aid which his acting as Potail would afford to the internal administration of the country, it would also contribute greatly to check those combinations of the Meerassadars, which have so often been complained of by the Collector.

28. Though considerable preparation has been made in Tanjore for the appointment of Potails, it does not appear to me that any real progress has been made: on the contrary, I am satisfied that the difficulty will now be greater than if no previous steps had been taken. This arises from what has already been adverted to the taking the individual opinions of the Natumkars on the measure, and the encouragement thereby given to them, of expecting to obtain favourable terms for their services. If men be left to their own choice in the discharge of their duties, they will, of course, always reject those which are troublesome or disagreeable. The principle sanctioned by the general practice of India should be maintained, that every village must find a head to discharge the duty of executing its public business, in the manner which may be required by Government.

29. From

Colonel Munro's Report, 8 Feb. 1817.

29. From this principle not having been observed in Tanjore, either before or since the passing of the Regulation for the appointment of Potails to do the duty of village Moonsiffs, and from its having been thought necessary, not only after the passing of that Regulation, but even after what is called the appointment of the 4,108 Potails, to consult the Potails, as to their being willing or not to discharge the duty of the office, the introduction of the proposed arrangement has been much retarded. The appointment of the 4,108 Potails consisted merely in the Collector's authorizing that number to be appointed to a similar number of villages, according to lists of villages and Meerassadars to act as Potails, which had been submitted to him by the Tehsildars; but as the option was still offered to the Potails thus appointed, to hold or relinquish the office as they thought proper, the consequence has been, that as far as could be ascertained from the returns of such of the Tehsildars as had made any, the number of those who had declined was much greater than that of those who had agreed to act, and that the system of village Potails is, as far as ever, from being established.

30. After what has been said, it can hardly be necessary for me to deliver it as my opinion, that there is no more difficulty in finding heads of villages in Tanjore than in any other district, and that their not having yet been found has arisen from the Collector's not having taken the steps calculated to insure success to the measure.

I have, &c.

(Signed) THOMAS MUNRO,
First Commissioner.

Tanjore, 8th February 1817.

MEMORANDUM.

Total number of villages in Tanjore is 6,011, of the following description.

Tareppoo, or Sircar villages, including Ardamaniem	4,729
Shrotriam villages	611
Rockagoottagay ditto	53
Nilloogoottagay ditto	18
Paullun ditto	251
Survamaniem ditto	209
	5,871
Villages of his Highness the Rajah	140
	6,011

Deduct villages in which no persons have yet been found answering the description of head inhabitants, as given in Section 3, Regulation IV. of 1816.

Yakabogum villages, in which the Meerassadars have no houses at all	253
Number of villages in which the Meerassadars do not reside, having houses in other villages	249
Total Yakabogum villages	502
Palabogum villages without any person to do the Moonsiff business, the proprietors having been already appointed elsewhere	69
Total villages, in which no persons have been found answering the description of head inhabitants	571
Amany villages belonging to his Highness the Rajah, and church villages belonging to his Highness the Rajah	140
Villages under management, in which Meerassadars are entirely prohibited from having any interference by the proclamation of October 1810	532
Carried over	1,243

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Brought forward	1,243
Church villages, the churches themselves being the Meerassadars, the villages are managed by the Circar servants	576
Villages belonging to Chattrem and Madoms for which there is no proprietor	34
Villages of mosques	16
Villages belonging to the rajahs, priests, &c. &c. lists are sent to them to appoint people	26
Villages formerly possessed by Cavilgars, and now under Aumany	8
	1,903

The accounts of three talooks shew that one hundred and twenty-four of these villages are without inhabitants, and when the statements from the other six talooks are received, it will probably be found that six hundred of these 1,903 villages are uninhabited, and therefore require no Moonsiffs. The uninhabited villages are cultivated by Paragoodies and others in the neighbourhood.

Total number of villages to which Potails are not appointed	1,903
Villages to which Potails are appointed	4,108
Total number of villages in Tanjore	6,011

This number is exclusive of the one hundred and six villages lately restored to the French, with Karrical.

The Rajah has directed the Curnums of his Highness's villages to attend at the talook cutcherries, to take copies of the police and judicial Regulations of 1816; and the Resident at Tanjore has been requested to furnish information, shewing the fittest person in each village for head inhabitant.

Proposals for renting the church villages have been invited, and about 200 of them are already rented, so that the renters may be nominated head inhabitants.

GENERAL REMARKS.

In those villages where neither renters, permanent managers, nor underrenters, reside, a respectable Kashagoody* or Paragoody might be nominated head inhabitant, and enquiries are now making to ascertain the fittest person in each of such villages. As, however, Section 3 of Regulation IV. of 1816 seems to apply only to renters of land and persons connected with the land revenue, another clause might be added to this section, authorizing the Collector to nominate respectable Kashagoodies head inhabitants in villages, where no persons reside of the description contained in Section 3, Regulation IV. of 1816.

(Signed) ST. J. THACKERAY,
Acting Collector.

REPORT *of* Mr. ST. JOHN THACKERAY,
Dated 10*th July* 1817.

To the Secretary to Government, Judicial Department.

Sir:

Mr Thackeray's Report, 10 July 1817.

1. I have the honour to acknowledge the receipt of your letter of the 19th ultimo, desiring me to report in what degree the arrangements connected with the introduction of the new system of internal administration have been completed in this district since I took charge of it.

2. Moonsiffs

* The term "kashagoody" applies to those who have nothing to do with cultivation, and are neither Meerassadars, renters, Paragoodies, nor Pullers.

Mr. Thackeray's Report, 10 July 1817.

2. Moonsiffs had been nominated to above four thousand villages, and village Curnums had been furnished with copies of the police and judicial Regulations of the year 1816, before I took charge of the district.

3. Soon after the arrival of Colonel Munro in January last, he received from me two statements,* copies of which I have the honour to submit. These shew that Moonsiffs had been appointed to 4,108 villages; that of the remainder some contain only Paragoodies, Pullers, and Pariahs, and that some are entirely uninhabited.

4. Regulation IV. of 1816 appearing to require that every Moonsiff should reside in his village, and that he should be concerned in the rent or revenue management of it, I suggested the expediency of adding another clause to Section 3, authorizing the Collector to nominate kashagoodies head inhabitants in villages containing no persons of the description referred to in that section. Another clause also seemed requisite, to empower a yekaboghum proprietor, possessing several villages in the vicinity of each other, to perform the duties of Moonsiff in all of them, without being compelled, as he is by the present Regulation, to reside where he acts.

5. No further instructions have been yet received from the Commissioners respecting the villages above alluded to. I have endeavoured, however, to ascertain the fittest persons among the kashagoody inhabitants of each to conduct the duties of Moonsiff, and in renting the pagoda villages: the performance of these duties is made a condition of the rent.

6. It has been shewn, that the introduction of the new system, so far as it depends on the appointment of head inhabitants and the distribution of the new Regulations, has long been completed in by far the greatest part of this district. As, however, the effects of the system seem to depend on the disposition and exertions of the head inhabitants, more than on their appointment to the situations of Moonsiffs, and as they are certainly very unwilling, in this district, to perform the duties imposed on them by the Regulations, it may be proper to state the circumstances which appear to have given rise to their objections.

7. Heads of villages in this province, so far from enjoying allowances similar to those which they appear always to have received in other districts, are required, under Regulation I. of 1816, in common with all other proprietors of lands and houses in the Tanjore district, to contribute towards the maintenance of a police establishment, of which they are expected to be the most efficient members. The funds hitherto allotted for the support of the cavelly system, are by this Regulation declared appropriable to the maintenance of this establishment; and as the success of the new system depends so much on the zeal and exertions of heads of villages, I venture to submit the expediency of placing the head Meerassadars in Tanjore somewhat more on an equality with those in other districts, either by relieving them from contributing to the support of the police establishment, or by granting them allowances equivalent to what they contribute. Such a remuneration for their services, so far from being a concession of any right of Government, would be merely an appropriation of part of the cavil funds to the purpose noticed in Section 2, Regulation I. of 1816.

8. The justice and policy of the measure which I now venture to suggest has long appeared evident to me. I should, however, have remained silent on the subject, until the return of the Collector, did it not appear to be materially connected with the success of the system, respecting which I have been desired to report.

I have, &c.

(Signed) ST. J. THACKERAY,
Acting Collector.

Cutcherry of the Collector of Tanjore, 10th July 1817.

REMARKS

* One is at the end of Colonel Munro's report of 8th February 1817, and the other at the end of this.

REMARKS respecting those Villages in Tanjore, in which no person has been yet appointed to conduct the duties of Village Moonsiff or Head Inhabitant.

Aumany villages,... 532

Mr. Thackeray's Report, 10 July 1817.

A few of these villages have been in aumany since fusily 1210, but most of them only since fusily 1225, in consequence of the Meerassadars having refused to agree to proper terms of rent. Their object and interest is to conceal and depreciate the resources of the villages, and the proclamation of 1810 was intended to prevent their interference; as, therefore, they have nothing to do with the concerns of the village, Paragoodies or Kashagoodies might probably be found to do the Moonsiff business.

Church villages..	576
Chetram and Matram villages............................	34
Mosque villages...	16
	626

These six hundred and twenty-six villages may be classed together. Those that are rented to resident renters can be superintended by them, and this superintendence may be made a condition of the pottah in those villages that are not yet settled. In such of the church villages as are already settled, and are without either a resident renter, a permanent manager, or an under-renter, the fittest person in the village may be nominated by the Collector. Preference should be given to a respectable meerassi Paragoody, where there is one.

Villages belonging to priests, &c. of the Rajah......... 26

Many of the proprietors of these villages are singers in the Rajah's palace, and their occupation, in some instances, disqualify them for Moonsiff business. As, however, there are many more individuals than villages, they must either find twenty-six persons of their number, or must point out managers or under-renters to act for them.

Cavilgars' villages in aumany................................ 8

These have been in aumany since fusily 1223, and remain so until their resources, &c. are fully ascertained. There are Meerassadars in all of them; but as there is the same objection to appointing them Moonsiffs as in the other five hundred and thirty-three villages, Paragoodies and Kashagoodies are the only persons to whom the duty can be entrusted.

The Cavilgars who formerly possessed these villages have no meerassy right in them.

Yakabogam villages, in which the Meerassadars have no houses,	253
And in which they have houses but do not reside	249
Polabogam villages, the proprietors of which are already appointed to other villages..	69
	571

The same difficulty occurs in these three description of villages.

Where no Meerassadar, permanent manager, or under-renter resides, the fittest person in each village must be appointed by the Collector, preference being given to a meerassy Paragoody where there is one.

Where, from the proximity of several villages belonging to one person, this person may be able to superintend all of them, a clause should be added to Section 3, Regulation IV. making it unnecessary, in such cases, for the Moonsiff to reside where he acts.

In

Mr. Thackeray's Report, 10 July 1817.

In villages, the population of which consists only of weavers or other manufacturers, and Paragoodies not meerassy Collectors, probably the most respectable among the former, might do the Moonsiff business.

In villages where Paragoodies and Pariahs are the only inhabitants, one of the former could do the duty.

The Resident has been requested to furnish information respecting the Rajah's one hundred and forty villages, and his Highness has sent Curnums to the talook cutcherries to take copies of the new Regulations.

(Signed) St. J. THACKERAY,
Acting Collector.

REPORT *of* COMMISSIONERS,
Dated the 18th September 1817.

To the Chief Secretary to the Government, Fort St. George.

Report of Judicial Commissioners, 18 Sept. 1817.

SIR:

1. WE have the honour to acknowledge the receipt of Mr. Secretary Hill's letter of the 19th July, with copies of his letter of the 19th June to the acting Collector of Tanjore, and of that officer's answer.

2. The acting Collector states, that two things are wanting, in order to render the village Moonsiff system in any degree efficient in Tanjore. The first is an extension of the provisions of Regulation IV. 1816, so as to authorize Collectors to nominate, in certain cases, the proprietors of villages, though non-resident, to act as head inhabitants of such villages, and to appoint, in villages where there is no head inhabitant connected with agriculture, a Kashagoodee to act in that capacity. The second is the exemption of the head inhabitants of villages from contributing to the police establishment.

3. The subject of non-resident head inhabitants, and of the exemption of head inhabitants from contributing to the police fund, was brought to the notice of Government by the First Commissioner, in his report of the 8th February last. In that report it was proposed, that in the event of its appearing to the Right Honourable the Governor in Council that non-resident head inhabitants could not act under Regulation IV. 1816, that a supplementary Regulation, empowering them to act, should be framed. As the case of several small villages being the property of one person, who cannot afford to employ a deputy in those in which he does not reside, is found in Malabar and some other districts, as well as Tanjore, and as two or more villages, having no general proprietor, are in some districts, on account either of their local situation, their smallness, or some other cause, frequently united under one headman, and as doubts may be entertained as to his competency, under the existing Regulations, to act as head of any village, except of that in which he actually resides; we beg leave to recommend, that the Commission be directed to prepare a supplementary Regulation, to remove the present difficulties respecting non-resident heads of villages, and to provide in general for whatever may be necessary, in order to render the village system more compleat.

4. We would also recommend, that the Tanjore heads of villages be exempted from the house-tax imposed for the police establishment; and should any other house-tax exist, from it likewise. The value of the exemption, in a pecuniary view, is insignificant, but as a mark of distinction considerable importance is attached to it by the natives; and as it is allowed in other districts, we think they ought to be extended to the heads of villages in Tanjore.

5. The heads of villages in Tanjore should, we think, be placed on the same footing, with regard to allowances, as those of Coimbatore; but before the measure is carried into effect, it will be advisable to ascertain what the amount is of the remission of taxes which has already been granted to the heads of villages

Report of Judicial Commissioners, 18 Sept. 1817.

villages and other Meerassadars of Tanjore, since the commencement of the Company's Government, under the heads specified in the First Commissioner's report, as well as any other heads not included in that report. The Collector might be directed to prepare statements of the amount of these remissions, and likewise of the amount of allowances formerly received, under the Rajah's government, by the Nattamkar or head of the village from the Meerassadars. These statements would show whether the heads of villages of Tanjore do not actually enjoy remissions equivalent to the allowances granted to those in Coimbatore; or if they do not, whether the deficiency ought to be made up by an assessment on the Meerassadars or by Government.

6. As the allowances paid to the heads of villages by the Meerassadars have been very generally either lessened or discontinued, since the transfer of Tanjore to the Company, the best way of discovering what the amount of them formerly was would be by making the heads of villages understand that it would be used as a standard in regulating their future allowances.

7. We would recommend that the house-tax on the heads of villages in Tanjore be immediately abolished, and that whatever official allowance it may hereafter be deemed proper to grant to them be given in land, wherever land can be found for that purpose, and where there is no land at the disposal of Government, by a remission of rent.

We have, &c.

(Signed) THO^s. MUNRO,
First Commissioner.

GEO. STRATTON,
Second Commissioner.

Madras, 18th September 1817.

Ordered, in consequence, That the following letters be dispatched to the Collector and Magistrate of Tanjore, and to the Commission for revising the Judicial system.

To the Collector and Magistrate, Tanjore.

Sir:

1. I am directed by the Right Honourable the Governor in Council to transmit to you the accompanying copy of a letter from the Commission for the revision of the Judicial system, with a copy of the twenty-sixth and twenty-seventh paragraphs of the report therein alluded to.

2. The Commission have been desired to frame the draft of the supplementary Regulation regarding heads of villages, which they consider necessary.

3. You will take for your guidance the suggestions contained in the letter from the Commission, relieving the heads of villages from the police-tax and from any other house-tax to which they may be liable, and ascertaining the amount of all sorts of remission, of impost or other advantage which they at present enjoy, compared with the advantages which they may have enjoyed under the Rajah's government. The relief from house-taxes is to be granted immediately, and you will report how much it amounts to, both in the aggregate, and on an average, to the individual head of villages. The other points of information required, you will ascertain with as much accuracy and expedition as may be practicable, and will submit them to the Governor in Council.

I have, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George, 14 October 1817.

REPORT

REPORT *of* Mr. J. HEPBURN, COLLECTOR *and* MAGISTRATE *of* TANJORE,

Dated the 8th November 1817.

To the Chief Secretary to Government, Fort St. George.

SIR:

Mr. Hepburn's Report, 8 Nov. 1817.

1. I had the honour to receive the letter of the Secretary to Government of the 14th on the 27th October, enclosing copy of a letter for the revision of the Judicial system, together with an extract of the twenty-sixth and twenty-seventh paragraphs of a report from the First Commissioner, of the 8th February last, upon the state of Tanjore; informing me, at the same time, that the Commission had been directed to prepare a supplementary Regulation, providing for certain cases that have occurred here, to which the former one does not apply, and directing me to take the suggestions contained in that letter for my guidance, relieving the heads of villages appointed Moonsiffs from the police-tax, or from any other house-tax to which they may be liable, and to ascertain and report the amount of all sorts of remissions and imposts, or other advantages which they at present enjoy, compared to those which they did enjoy under the Rajah's government, together with certain other points of information, which I am directed to submit, for the consideration of Government, with the least practicable delay.

2. Before entering upon the subject of the above letter, I will, with permission, avail myself of the present opportunity of acknowledging the receipt of the former letter from the Secretary to Government in the Revenue department, of the 5th July last, ordering me to return to my station in Tanjore, and conveying the expression of the disapprobation of the Right Honourable the Governor in Council at the style and tenour of my correspondence with the Commission, which had created an impression in their minds of disinclination in me to give them that support, in my capacity of Collector, so urgently prescribed in the orders of the Court of Directors.

3. In respect to the style of my correspondence, it having been pronounced exceptionable, I have to express my sincere regret that there should have been grounds (which assuredly never was intended) for such an opinion; and still more so, that I should never till now have had an opportunity given me of publicly recording that regret, which I certainly should not have hesitated a moment to do, as soon as I had been made aware of my error. I trust I can, with confidence, appeal to a service of twenty years, in proof that pertinacity in error forms no part of my public character; and I should certainly have willingly seized any occasion that had been given me of shewing that it constituted no part of it now, by making such reparation as was then in my power, if either the Government or the Commission had, in any way, pointed out to me the error into which I had fallen. This ordinary indulgence, however, I am sorry to say, was not observed towards me, and I have, in consequence, been so unfortunate as to have laboured for a long time under the effects, without being made publicly acquainted with the course of the displeasure of Government. This I have the more reason to regret, as the principal complaint of the Commission against me originated in a misapprehension of circumstances, into which it was easy and natural for me to fall, and which was both capable and easy of explanation. The Commission have acknowledged themselves that this part of the question arose entirely from a mistake of their own, in addressing to me a letter intended for another person, and, as it happened, of such a nature, that had the deepest art been employed to mislead me, it could not have more completely succeeded. I would beg to submit, therefore, whether in candour, when it was quite evident I was deceived, the whole consequences of their mistake shall fall upon me, after they, by recalling their letter, had acknowledged it, and at the same time withdrawn themselves from all the responsibility of it.

4. In what terms the Commission may have represented their impression of my disinclination to afford them the expected support, or upon what grounds that impression was founded, I have not been officially informed, never having been

Mr. Hepburn's Report, 8 Nov. 1817.

been furnished with any of their communications with Government upon this subject. As this is, however, the only opportunity I shall ever have of affording any explanation to our Honourable Employers, before whom the whole of the statements of the Commission will appear, and as the anxiety of the Honourable Court to introduce the new system may, without such explanation, bring down upon me their displeasure, I trust that the attempt to remove so serious an imputation upon my public conduct, and to do away, if possible, the unfavourable impression under which the Government have passed so heavy a censure upon me, will be excused in an officer of my rank and length of service, who has ever been anxious to discharge his duty with zeal and fidelity. Notwithstanding the disadvantages, therefore, under which I shall labour, from not having the contents of the Commissioners' report before me, I still trust that the Government will be pleased to receive with their accustomed liberality the few following facts, founded prrincipally upon dates which cannot be overturned.

5. The representation of the Commission of a want of support from me, can only, I apprehend, apply to the period subsequent to the receipt of the new Regulations, as previous to that time they had required the performance of no one act from me, excepting to furnish them with a few statements, which, I have reason to think, I was one of the first to do. The principal of these Regulations, three in number, were received in the month of August, with instructions to furnish a copy of them to the head inhabitants of every village in the district. No time was lost in immediately commencing this undertaking; but as the whole system, and the duties to be performed under it, were new to the persons who were to fill the office of Moonsiff, it appeared to me that the selections could not be began upon with effect, until the nature of their new duties was generally known to the future Moonsiffs. In fact, my knowledge of the disposition of the people convinced me, that to have made the nominations at once, before the system was understood, would at once have produced its entire failure.

6. The labour, therefore, of introducing the system here, compared with any other district, became extraordinary. The Regulations, as they then stood, being considered applicable to about six hundred villages only, it became necessary for the Collector to appoint Moonsiffs for as many of the remaining five thousand villages as the system could in any way be extended to. In consequence of a representation from the Commission of a want of support from me, dated *in September*, one month only after the receipt of these three long and intricate Regulations, I was in October ordered to Madras, for the purpose of having a personal interview with the Right Honourable the Governor. Before the end of November, however, and before I was relieved in the charge of my office, above four thousand Moonsiffs were selected and appointed by me, comprehending every instance to which the Regulations could apply, and copies of the Regulations furnished them. This fact is confirmed by Mr. Thackeray, in his letter to Government of the 1st July last. The system was from that time, in fact, introduced, and only required to be put in motion. It is within my knowledge, that its introduction was completed here, as far as depended upon me, much before any of the neighbouring districts, although the labour was beyond comparison greater, because the officers, as well as the office, was to be created.

7. I hope I may be permitted earnestly, therefore, to solicit Government to do me the justice to call upon the Collectors of the adjacent southern districts, to know how many Moonsiffs they had appointed by the end of November last, in order that the Right Honourable the Governor in Council may judge what foundation the Commission had for the impression stated to be left on their minds *in September*, of my disinclination, in particular, to give them the support required of me as Collector. That the persons selected by me were those contemplated by the Regulation, I have every reason to believe has been admitted; indeed, none other have been proposed. In every practicable instance, the principal landed proprietor in the village was chosen as its head; and I am informed by the Sherishtadar of this cutcherry, that when he, by order of the assistant in charge, waited upon Colonel Munro (who left Madras on the day of my arrival at it for this district), to explain to him the principle upon which

which the selection had been made, he expressed himself satisfied with it, stating that these were undoubtedly the persons in view in the Regulation for the office; at the same time, he regretted that the Regulation had been strictly adhered to with respect to some other villages, which he said was not intended by the Commission. For what happened in my absence, I humbly apprehend I cannot be responsible. I was called away from my station before an opportunity had been given me of settling the system I had introduced into motion. Whether I should have succeeded better under the Regulation, as it then stood, than Colonel Munro did, I pretend not to say. I would only submit, that a proposition from the Commission of the necessity of an amended Regulation, and of placing the Meerassadars of Tanjore appointed Moonsiffs, upon the same footing as the Potails of other provinces made Moonsiffs, shews that the circumstances of this district were peculiar, and that my representations of them were correct. How far the difficulties attending them, and whether the space of one month, within which the impression of my disinclination of affording them due support had been created in the minds of the Commission, was sufficient to overcome all the difficulties I had to contend with, I humbly leave to the consideration of Government, earnestly begging that their opinion of my conduct may be judged of with reference to that of others, similarly situated with myself.

8. In reply to Mr. Hill's last letter, inclosing the several communications of the Commission, I have the honour to state, that observing, on my return to my station, the assistant Collector in charge had reported, in his letter of the 1st July, to Government, that the introduction of the new system, as far as depended upon the selection of one inhabitant in each village to perform the duties of Moonsiffs or head inhabitants, and the distribution of the new Regulations had been completed by me, in by far the greater part of the district (wherever the Regulation was applicable), before I left it last year, but that, from the unwillingness of the people to undertake the duties of the office without remuneration, the system had made little or no progress during my absence; and as I certainly found that nothing had been done, and that matters remained exactly in the same state in which I had left them nearly a year before, it has therefore been the principal and most earnest object of my attention and study, since my return, to ascertain the most eligible mode by which their scruples could be overcome. The assemblage of all the principal landholders of the country at the dussarah feast, a few days ago, offered an eligible opportunity, by personal intercourse, of using all the influence I might possess over them, to induce one Meerassadar in each village to undertake willingly the execution of the new duties assigned to them as Moonsiffs under the new system; and although they are stated to have previously declined to perform any of the duties expected from them, I am happy to be able now to report, that they readily promised me to meet the wishes of Government, upon the condition only of receiving some remuneration for the time and trouble their new office must entail upon them. This demand, on their part, appeared so reasonable, that knowing the difference of situation between the Meerassadars of Tanjore and Potails and Monigars of many of the other provinces, a report of my proceedings upon this subject was already in preparation for the information of Government, when the arrival of Mr. Hill's letter, by requiring information upon points which it would not have embraced, has caused its suspension till the necessary documents are prepared. In the mean time, no impediments to the execution of the system exist on the part of the inhabitants selected for the office of Moonsiff, and the example of the principal landholders has been so generally followed, that the other Meerassadars have already, almost every where, consented likewise to act as Moonsiffs; and I trust, as the system is now set in motion, that the Moonsiffs here will prove not less efficient than those in the other provinces.

9. As I find, from the enclosures in the letter received, that I have already been anticipated by the First Commissioner in the proposals of placing the inhabitants of Tanjore, who have been selected for the office of Moonsiffs, upon the same footing as the Potails already existing in other districts, I trust the greatest difficulty in effecting the desired arrangement is now removed. The admission of this necessity, on the part of the Commission, tends greatly to

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facilitate and reconcile the whole subject, as what formerly was principally contended for was, that the situation of the Meerassadars here is very different from that of Potails of other districts, and that in Tanjore they enjoyed no immunities in land or money, in return for which the Government could demand the performance of police and judicial duties. This position seems now to be confirmed by the First Commissioner's letter.

10. A proposition to recommend an exemption from the house-tax to the person officiating as Moonsiff, was made by me to the Meerassadars, previous to the receipt of the letter of the Commissioner to the same effect; and although I found that the distinction which this exemption would confer was fully appreciated, it will not, however, be considered by them a full compensation for the time (here particularly valuable to a cultivator) and trouble they will be required to dedicate to their new office. The amount, in a pecuniary point of view, is the merest trifle (a double fanam a year only, individually, for the best description of tiled houses in the district), and there are no other police taxes paid directly by them; the remainder of the police funds consisting of a certain portion of the gross produce, as will be more fully explained on a future occasion.

11. An equalization being recommended by the Commission between the remuneration to the Meerassadar here and the Monigars of Coimbatore, I shall apply, with the permission of Government, to the Collector of Coimbatore for information on this subject, in order to facilitate the execution of the wishes of the Commission.

12. Having been formerly an assistant Collector, and for some time in charge of Coimbatore, I possess a pretty good general knowledge of the subject; and, as far as my recollection serves me, the mode of revenue management there, unless since changed, is nearly the same as that of the Ceded Districts. In Coimbatore the lands assigned to the Gouds (for the word Potail is not used in Coimbatore) were assumed by Major Macleod, and an allowance made in money to the person appointed to collect the revenue of the village, who has been generally called Monigar, and is a head inhabitant.

13. In the district of Sattanaid, a part of the Carnatic into which, so long ago as 1803, I introduced the ryotwar plan, as laid down by Colonels Read and Munro, I took away the mauniums the inhabitants enjoyed conjointly, and selected one person to be Putta-monigar, who was to be allowed a percentage on the collection.

14. The Potail, it would appear, is an officer of some standing in the Ceded Districts, and that he held lands; but these lands are held in share by the relations of the Potail, and that Colonel Munro did not resume these lands. He estimates their value, and those assigned to the Curnums, to exceed two lacs of pagodas annually.

15. In Tanjore no such office as that of Potail, Monigar, or Putta-monigar, existed, and of course no remuneration for the inhabitants called upon to perform the office of Moonsiff. The Curnum, of late years, has collected the revenue, and formerly it was done by a Sircar officer; but the whole Curnum establishment of all the district amounts to no more than twenty thousand pagodas a year, and the inhabitants have nothing.

16. These great distinctions could not be unknown to me, who have been employed in so many different districts, and I trust this brief explanation will not be considered intrusive. Persons have been selected in Tanjore to fill the office of Moonsiff: they have undertaken the duties, and Government have consented to remunerate their services. Thus all difficulties are removed; and I should hope much, if not all the blame imputed to me by the Commission for disinclination to introduce the system.

I have the honour to be, &c.

(Signed) J. HEPBURN,
Collector and Magistrate.

Cutcherry of the Collector of Tanjore,
8th November 1817.

The President intimates to the Board his intention of recording his sentiments on the foregoing letter at a future period, the further consideration of the letter is therefore deferred.

REPORT *of* COLONEL MUNRO,
Dated the 26th May 1817.

To the Chief Secretary to Government, Fort St. George.

Sir:

Colonel Munro's Report, 26 May 1817.

After my report from Tanjore, dated the 8th February, I proceeded to Trichinopoly, Madura, Dindigul, Coimbatore, Malabar, and Canara. The purposes to which my inquiries in these provinces were chiefly directed, were, to ascertain the condition of the village servants, but more particularly that of the heads of villages; whether heads of villages existed in all districts, and if they did not, how the want of them was to be supplied; whether, in those districts where they did not exercise the powers usually vested in Potails, their authority had been thus limited under the Company's Government only, or had always been so under their own native rulers; whether the authority which they enjoyed under those rulers was not, in a great measure, similar to that which has been conferred upon them by the late Regulations; and whether the new system is, in general, acceptable to the great body of the people, or not.

2. As it was most likely that both the heads of villages and the inhabitants would prefer that form of village administration to which they had been long accustomed, and under which their ancestors had lived, it became necessary that I should examine rather what it had been under the native princes, than what it was under the Company's Government. Such an investigation, to be well made, must be made by the Collector, having at his command every channel of information, and must be leisurely conducted. The shortness of my stay, which was never more than from ten days to a month in any one province, did not admit of my making so full and accurate an inquiry as might have been wished, and though the information in this report must therefore be defective in many instances, I am persuaded that it is sufficiently correct in all the main points of the ancient village system, which are those which are most essential to be known, because the knowledge of them will show whether the new system is a complete innovation unknown to the old institutions of the country, or merely a restoration of the ancient village system, with such modifications as were requisite, in order to render it more efficient and uniform.

3. It was impossible to prosecute the inquiries in which I was engaged, without being constantly interrupted by representations of grievances, real or imaginary. Such of them as seem deserving of any attention I shall state hereafter, as well as what I have to say regarding Malabar and Canara, and confine the present report to Trichinopoly, Madura, Dindigul, and Coimbatore.

4. In these provinces I found prevailing every where the same general system of the village affairs being directed by a head cultivator, either Bramin or Sudra. This man, however denominated, was in fact the Potail, and the authority which he exercised in different districts so much the same, that the account of one district might answer for all the rest. But as his allowances and privileges varied considerably in different districts, it may be necessary to state separately, though at the expense of a good deal of repetition, what his situation was in each particular district.

5 In Trichinopoly, under the Hindoo Government, the denominations and privileges of the heads of villages varied in the wet, the dry, and the Poligar districts. In the wet, forming by far the most considerable part of the collectorate, the villages possessed by Bramins were called *agrahar*, and those possessed by Ryots *pandrawadda*. In the Bramin villages, the headman was called sometimes the *Gramni*, but commonly the *Prowartak*: in the Ryot or Sudra villages, the headman was called *Gour* or *Natumkar*; different terms, but expressing the same thing, the headman, head villager, or manager.

6. The functions of the heads of villages, whether Bramin or Ryot, were the same: they discharged all the duties usually exercised by Potails in revenue and police matters, and in settling petty suits. The village servants were under the head of the village, not under the other Meerassadars or Ryots. In private or extra assessments, and other matters regarding the general interests of the

Colonel Munro's Report, 26 May 1817.

the village, the head consulted the other Meerassadars. In orders from the Sirkar, not of general interest, he did not consult them, and either acted alone or in conjunction with the Monigar, or other Sirkar officer. In trifling disputes about water, application was made, in the first instance, to the head of the village, who settled them with the Monigar. In cases of petty debts, the parties applied to the head of the village; and if notsatisfied with his decision, went in succession to the Monigar and Tehsildar.

7. The Monigar, who is so often mentioned in conjunction with the head of the village, was a petty officer, appointed and dismissed at pleasure by the Tehsildar. In Trichinopoly his jurisdiction was usually limited to one large, or two or three small villages. He superintended the cultivation, the reaping and selling of the Sirkar grain and the collections, and he also took cognizance of petty offences and suits, with the aid or through the mediation of the head of the village. He was, however, little more than a kind of head Peon. His pay was only four or five rupees a month; and though, as a Sirkar servant, he was obeyed, he was never respected like the head of the village, and when complained of by him he was generally removed by the Tehsildar. The Monigar, therefore, though nominally placed in authority over the head of the village, seldom did any thing without his concurrence, and was in reality usually directed by him.

8. The heads of villages, as a compensation for the duties they discharged, enjoyed an allowance of grain or of land rent-free (monjem), or of both. The allowance in grain was confined to the Bramin villages, which however formed more than four-fifths of the province, and was originally granted by the Naiques of Trichinopoly: it amounted to from twenty to two hundred kollums, according to the produce of the village. It was given from the Sirkar share. It is stated by the inhabitants, but I do not know that their testimony is supported by any sufficient document, that under the Hindoo government the Sirkar share of the produce in the villages belonging to Bramins was only one-sixth at first, but afterwards raised to one-fourth, and in those belonging to Sudras or Ryots one-third; that many of the Sudra villages were purchased by successive Rajahs and given to Bramins, on condition of their paying one-fourth of the produce as rent, and that these shares were continued until the country fell into the hands of the Nabob of the Carnatic, when they were altered. In Agrahars, where there was no monyem, the head man was allowed a remission in his rent of six or seven per cent.: he paid only one-fifth of the produce, while the other Meerassadars paid one-fourth of the produce of their respective lands to Government. In the Sudra villages, the head of the village had service land, which was usually called gour or ambub monyem. In the Bramin villages, the monyem of the head man was resumed by the Nabob, who continued the allowance in grain which had been granted by the Naiques; but it was so frequently reduced in amount, or withheld altogether, that it could not be considered as a fixed remuneration. In the dry villages, the monyems were continued to their heads, as under the Hindoo government, and the heads of all villages continued to discharge nearly the same duties, with the same authority, as under their ancient Sovereigns, until the transfer of the province to the Company. Though in the Bramin villages the monyem held by the head man was originally granted, under the term of brim wast or agrahar, to all the Bramins of the agrahar, with a larger share to him, yet it was usual for him to enjoy the whole, except in villages where dissensions prevailed, when the other Bramins claimed their respective shares. In the Sudra villages the monyem was exclusively enjoyed by the Gour or head man.

9. The right claimed by the Tanjore Meerassadars of removing and appointing the Nattamcar or head of the village, does not exist in Trichinopoly in the Sudra villages. He was there always considered as hereditary, though liable to removal by Government. His removal was usually the consequence of incapacity: a more able Meerassadar was associated with him, and gradually allowed to supplant him. In the Bramin villages, if the head was unfit the Meerassadars represented it, and proposed another to fill the office, who was confirmed by the Sirkar. The custom of allowing to the Bramins a privilege denied to the Ryots, of interfering in the nomination of the head of the village, seems to have arisen from respect to their caste, and also from the greater

equality

equality and consequent insubordination among them than in other castes, producing frequent feuds and opposition to their head, which could only be remedied by his removal.

10. In Torriore, Arrialore, and Wuddiarpollum, pollams depending on Trichinopoly, the condition of the heads of villages differed considerably from what it was in the Sirkar districts. They were in those pollams distinguished by the appellations of Gour, Nattar, Reddi, Nainar, according to the caste to which they belonged, or by the general term of karikar or manager. Their duties were the same as in the Sirkar villages. They had no service land (manium), but from a remission of five per cent. allowed to all the Ryots, they had a larger portion, and in some villages the whole, and they received batta from the other Meerassadars whenever they left the village on public business. They were removed by the Sirkar or the Poligar when they did not agree to the rent, and for other causes, and other persons appointed. In some villages of the Wolkonda jaghire the Nattars or heads claimed and still claim the superiority, and the right of selling all lands in them; but there is no evidence of their ever having sold any, except their own garden and wet lands.

11. In these pollams the Curnum in a few villages had service land; in the rest he was paid by fees in kind, or by a share of an assessment made for the general expenses of the village. He was, when paid in this manner, called the Curnum of the Ryots, and could be dismissed by them from his office.

12. The land in the districts of Trichinopoly is private property, and is hereditary, and transferrable by gift or sale, in every respect as in Tanjore. In some of the villages of the pollams the land, both wet and dry, is held in shares and sold as private property, as in Trichinopoly. In others, no land is sold, or considered as being private property, excepting garden, which is every where reckoned private property when it is planted with trees; because, were it otherwise, no individual would go to the expense of digging wells or tanks for watering it.

13. The tenures of land, as well as the privileges and duties of heads of villages, have much more diversity in the pollams than in the Sirkar districts of Trichinopoly. It would be a waste of time, and would be of no use, even if it were possible, to shew the origin of each particular variation. The details already given are sufficient to shew, that in the collectorate of Trichinopoly a system has always prevailed throughout all the districts of which it is composed, of managing the internal affairs of each village through the agency of one of its head Ryots or landholders. That this system, however it may differ in minute points from the potail one, agrees with it in the main point of having a head to each village, and that there is therefore no cause for believing that any difficulty will be met with in constituting these head men potails, and empowering them to act as such. Could I ever have entertained any doubt upon this subject, it would have been removed, by finding, on my arrival at Trichinopoly, that the Collector had already established the system over all his district. His conduct is entitled to great praise. He disapproved of the measure: he delivered his sentiments freely upon it, and stated many objections against it; but on being told that, notwithstanding these objections it was to be carried into effect, he began immediately and zealously, and soon completed the arrangement.

14. The principal divisions of which the present collectorate of Madura is composed, are Madura, the zemindarries of Shevagungah and Ramnad, and the district of Dindigul. Dindigul had long been in the possession of the Mysore Rajahs before it was ceded to us by Tippoo Sultan: the other districts were obtained from the Nabob of the Carnatic. But in all these districts, whether under the Carnatic or Mysore princes, the same general village system prevailed. The villages were then, and still are, under the immediate management of their own potails or head-men. As the authority and privileges of the head-men was not exactly similar every where, I shall state shortly what they *were* in the principal divisions of the collectorate.

15. In the district of Madura, the head-man was known in the Bramin villages by the appellation of Prowartah, and in the Sudra villages by that of

 Natumkar.

Colonel Munro's Report, 26 May 1817.

Natumkar. Each village had one, two, three, or four head-men, either in consequence of its less or greater extent, or of some old division of the family holding the office.

16. The head-man settled petty affrays and disputes, and punished in trivial cases. He had the immediate direction of the village police, and when the Talliar was remiss in the apprehension of thieves, he sometimes levied a fine from him, equal to the amount of his monyem or allowance from the village. He settled petty suits, either himself or by means of punchayet, or referred them to the Tehsildar. But the Tehsildar usually sent back such cases to him, and directed the heads of three or four of the neighbouring villages to join him in settling them. In wet villages he had the distribution of the water, and with the village Curnum under the Monigar, and his Curnum, called the the Sumpurti, directed the cultivation, reaping, and division, &c. of the crops. In the dry villages he collected the rent: the Moniagar and his Curnum had nothing to do with it.

17. The allowances enjoyed by the head of the village were a monyem or service-land, a share of the (mara) fees in grain allotted to the village servants, amounting to from one-twentieth, to one-tenth of the whole batta whenever he left the village on public business for more than a day, and a turban or cloth of the value of three or four rupees, as an honorary donation at the annual settlement.

18. The head-man in all villages, whether belonging to Bramins or Sudras, held his office by inheritance. The Meerassadars or landholders could neither appoint or remove him. If he was oppressive and a complaint was preferred against him he was fined, and sometimes punished, but not removed.

19. The village Curnum is called the Naut Curnum. He has official land and fees; he cannot be removed by the Ryots. His office is hereditary.

20. The above summary is sufficient to prove that the heads of villages in Madura discharged, under the Hindoo and Mahomedan government, all the duties, and possessed all the authority usually entrusted to Potails; and what follows will show, that in some other districts they enjoyed still more.

21. Shevagunga is the next district, in which it appears necessary to describe the condition of the heads of villages. There will be no occasion to give a separate account of it for Ramnad. What is said of Shevagunga will apply equally to that district, because both districts formed only one Rajahship until about eighty years ago, when it was divided, and rather more than two-fifths of the whole went to Shishavwina Tawer, to form the new zemindarry of Shevagunga, the Rajah of Ramnad, Curta Tawyer, retaining the rest.

22. In the Sudra villages the head-man is called Nautumkar, but much more commonly Ambulgar. In the Bramin villages he is called Prowurtak; but when a Brahmin happens to be the head of a Sudra village he is called the Mahajen.

23. There are one or two head-men not only to each head village (cusbah), but also to each inferior one (meyrah). The head-men of the inferior are sometimes the relations of the head-men of the superior village, and sometimes not, but they are always under their orders, as are also the village servants. The head of the village collected the rents in conjunction with the Monigar. In cases of theft he informed the Monigar, and when the amount was not considerable they punished. If it was trifling, he acted himself without the Monigar. In small debts, where the parties were willing, he settled the suit by a punchayet in the village, and its decision was held good by the Sirkar.

24. The head of the village had service land, and in the wet villages he had mara. In all villages one-tenth of the land cultivated was deducted from the annual settlement, and the Sirkar rent of this land was given to him and the Curnum, in equal portions.

25. The head of the village was punished for misconduct, but not removed: he held his office by inheritance. The land was not the private property of the Ryots, as in the Sirkar villages of Madura, nor of the Poligar, as in the Pollams, but of the head of the village and his descendants, and of such strangers

as

as had purchased from them. The Poligar could not grant land as monyem without purchasing it from the head of the village, nor could new settlers occupy waste land without buying it. If they went away after a few years, they received back the price. The advantage the head-man derived from their temporary residence was the increase made by their extra cultivation to his allowance of ten per cent. upon the whole, which, as has already been observed, was relinquished to him and the Curnum. From his own share of half, or five per cent., he remitted a part to those Ryots, who were either his immediate or presumptive heirs, but not to the rest. His claim to all lands in the village, as the original proprietor, before they were alienated by inheritance and division among different branches of the family and by sale, is at variance with Mr. Lushington's report of the 30th September 1802, in which he says, that in Ramnad there are no proprietory rights but the Ranis; and this opinion seems to be supported by the conduct of the present Poligar of Shevagunga, who is now contesting the claims of the heads of villages. They assert that he wants to seize a part of their monyems and allowances, in order to discharge his peshcush; that he has prevented the Curnums from making out a statement of them for the Commission, because they and the Curnums will not consent to insert only a part of them, which would give him a plea, under their own hands, for resuming the rest.

26. Village Curnums are a very ancient institution in Shevagunga. There was sometimes one or two to one village, and sometimes only one to two or three villages where the Curnum could not attend in person, his business was done by a deputy. The Curnum had the same extent of service-land as the head of the village, and the same allowance of five per cent. on the amount of the settlement. His office was hereditary.

27. In Dindigul, though the state of landed property was widely different from what it was in Madura, yet the system of village administration was so nearly alike in both provinces, that what is now to be said on this subject with regard to Dindigul, will be little more than a repetition of the observations already made upon it in speaking of Madura. During the long period that Dindigul was under the Naik of Madura, and the Rajahs of Mysore and their Mahomedan successors, no material change appears to have been made in the internal management of the villages. About thirty of the whole number were granted in early times to Bramins rent-free (survamanium), but a quit-rent was afterwards imposed upon them by the Mysore Rajahs: all the rest were called Sirkar villages, with the exception of those which belonged to the different Poligars.

28. In the Sirkar villages the head-man was distinguished by the appellation of Natumkar, so general in all the southern provinces. Each village had one or more Natumkars, according to its revenue, extent, or the number of inferior villages under the principal one; but the Natumkars of the principal had authority over those of the inferior villages, and over all village servants. They had service-lands, but these lands having been resumed in some inferior villages (mujrahs) which had become desolate, were not restored on their being repeopled.

29. The Natumkar of the inferior village collected the rent of it, and carried the amount to the Natumkar of the principal village, by whom it was remitted, with the rent of his own, to the cutcherry. The Monigar, who had the general superintendence under the Tehsildar of one or more villages, could not interfere with the collections. The Natumkar had the charge of the village police, and exercised all the authority usually vested in Potails: he held his office by inheritance.

30. There are Curnums to every village, and in all, whether Sirkar or agrahar, they have always had service-lands and been hereditary.

31. The police duties were discharged not only by the Talliars, but by the Totties, Tundkars Chumbars: all had service-lands. In many villages the Talliar was the servant of the Kawvilkar as well as of the Natumkar, but all the other village servants were exclusively under the Natumkar.

32. In

Colonel Munro's Report, 26 May 1817.

32. In Dindigul the land was the property of the Sirkar, with the exception of what had been alienated for the support of the village servants, religious establishments, and other objects. The Ryots never held their lands as private property (merasi). The Natumkars assert that the land was never, under any former government, Mahomedan or Hindoo, regarded as private, but always as Sirkar property. In the pollams, too, the Ryots had no property in the land. Each Poligar was the sole proprietor in his own pollam, because he was in fact the Sirkar there. He could remove any Ryot and give his land to another, though he usually respected the right of cultivation by which the Ryot kept the land as long as he paid the rent.

33. It is obvious, from the details given above respecting Madura, Dindigul, and the zemindarries of Shevagunga and Ramnad, that a village system has long been established in those countries, differing very little in the several districts, and agreeing generally with that which is found spread all over India; that the head-man or Natumkar has been accustomed to discharge all or most of the duties of Potail, and that there was therefore good reason to believe that he would not be averse to take upon him that of village Moonsiff. This opinion has been justified by the event, as the Collector had, some time before my arrival in the district, introduced the new system, not only without difficulty, but with satisfaction to the heads of villages.

34. In the districts now composing the province of Coimbatore, the villages were in ancient times managed by their Potails or head-men, under the officers of Government, or of the Poligars in the districts held by those chiefs. This system prevailed while the province was in the possession of Trimub Naik of Madura, in the seventeenth century, when it was subdued by the Rajah of Mysore, and during the usurpation of Hyder Ally and the reign of Tippoo Sultan, and has been continued under the Company's government.

35. There was a head-man to one or more villages, according to their size, having under him a Curnum, Totti, and other village servants. In the districts bordering on Trichinopoly he was called Natumkar or Nattar: in all the other Sirkar districts he was called Gour; and in the Poligar districts, Monigar. The cause of his being differently denominated in Sirkar and Poligar villages, was that the Poligars themselves being of the Gour caste, and being distinguished by the appellation of Gour or chief of their respective districts, did not choose that the heads of villages under them should have the title of Gour, and therefore gave them that of Monigar, which is generally applied to a revenue officer, whose appointment is temporary.

36. The influence of the Gours was so great, both under the Madura and Mysore Rajahs, that they were able to excite frequent insurrections. The Gour collected the revenue of his village, which if dry was usually paid in money, if wet in grain, and both in money and grain where there was dry and wet land in the same village. He collected a share of the produce (warrum) only where the Ryots were too poor to agree either to a money or grain rent. Though the rates of rent and produce due to the Sirkar were nominally fixed, yet as he was responsible for the realization of the revenue, he was no doubt permitted to raise them occasionally. He was assisted by the Curnum, who was, however, so much under his control, that he could write no accounts without his leave. He took cognizance of all suits brought before him by the inhabitants: he directed the village police, and punished offenders, not only in petty cases but sometimes in those of a serious nature. The Gours lost much of their authority during the strong government of Hyder Ally, but a few of the principal still retained enough to raise occasional disturbances until the province fell under the dominion of the Company.

37. Under the Madura and Mysore princes, the Gours were amply remunerated for the discharge of their duty. They had service lands rent-free, and fees in grain (marah) from every Ryot cultivating wet land; and though their service lands were resumed by Kishan Raj of Mysore, in consequence of their having joined the Poligars in rebellion, he at the same time granted them a remission, varying from a half to three-fourths in the rent of the land occupied by themselves. Their mara was resumed by Hyder, and the remission in the

rent

rent of their own land by Tippoo. The discontent by this measure induced Tippoo to summon them to Seringapatam. The dread of being compelled to become Mussulmans kept most of them away: those who attended obtained service lands, which were called Sultan enaums. All the Gours, however, obtained privately from the Tehsildars a remission in their own rent, and likewise such a share of the general revenue of their villages, by joining those officers in the extensive embezzlements of the public revenue which took place every where during the last half of Tippoo's reign, that they did not feel the loss of their ancient allowances. The Sultani enaums were resumed in the early part of the Company's government, and the small pay or commission, or the revenue which the Gours now enjoy, was granted.

38. The Gour held his office by hereditary descent: on failure of heirs, the vacancy was filled up by the Government. The office was rarely entirely forfeited, unless by treason or some heinous offence: for corruption or other acts of gross misconduct the Gour was fined or set aside, and some other member of the family appointed.

39. The establishment of the Curnum and other village servants is probably as old as that of the Gour in Coimbatore. Under the Madura and Mysore Governments, they had all service land and fees, excepting the Talliar, who had no land, but received one croi of grain per plough, one Veeroy fanam from each Ryot, and one Veeroy fanam on each house from all the other inhabitants. Each Talliar had from one to ten villages, and each Curnum usually from one tothree. The service lands of the Curnums were resumed at the same time as those of the Gours by Kishan Raj of Mysore, who gave them lands at a low or quit-rent and one Veeroy fanam on each plough. These fees were resumed by Tippoo, but the grain fee was privately paid by the Ryots until the Company's Government, when all allowances to the Curnums were ordered to cease, and a small commission upon the revenue was assigned to him in lieu of them.

40. The same village system, with very little variation, prevailed in the pollams as in the Sirkar districts. While Coimbatore was subject to the Naigues of Madura, it contained a great number of Poligars, who revolted and joined the Mysori, when after the death of Tremul Naigin of Madura they invaded and subdued Coimbatore. The Poligars having again revolted, Kistna Raj of Mysore expelled the greater part of them. In the country north of the Nool, those who still remained were deprived of their pollams and left with one or two villages each by Sham Raj of Mysore. These villages were resumed, and lands and fees given in place of them by Hyder, who also resumed all pollams south of the Nool, excepting such as are still held by the Poligars. Many of the present Gours and Natumkars of Coimbatore are descendants of the old Poligars. It would be useless to attempt to trace what the condition of the village servants was under the different Poligars; it is sufficient to observe, that in their districts the villages were under the immediate direction of head-men (monigars) and Curnums, as this fact proves how universal the system of village government was, and that it was held in such high estimation that its adoption was thought to be necessary in every situation.

41. In Coimbatore the land is regarded as Sirkar property. The inhabitants have no knowledge of its ever having been otherwise, not even when under the dominion of Madura, where the land is private property. The only lands held as private property are the service and other lands granted by Government for various purposes, and garden or wet lands, for which wells or tanks have been dug at the expense of individuals, which are considered as private property, in countries where the claim of the Sirkar to the property in the soil is the most rigidly maintained.

42. The Collectors who made the first settlement of Coimbatore, on its becoming a part of the territories of the Madras Government, knew the advantage which might be derived from the services of such a body of men as the heads of villages, and therefore continued them in the exercise of all the duties of Potails, and hence no difficulty was found in introducing the Moonsiff system among them, or will ever be found in inducing them to undertake whatever village duty the Government may entrust to them. The office of

 the

Colonel Munro's Report, 26 May 1817.

the head of the village was always, under the Mysore Government, an object of so much contest, as frequently to be the cause of bloodshed; and even under the Company's Government, though stripped of much of its emolument, it is still eagerly sought after; and even at this moment there are many competitors, who are afraid to reside in their old villages, lest they should be made away with by their opponents.

43. I have now, in this report and in that from Tanjore, endeavoured to give a brief sketch of what the village system was under the Native powers, until the Company's Government, in all the countries south of the Cavery, except Tinnevelly. It was my intention to have included that province in my circuit; but I abandoned it, on finding that it could not be accomplished without making me too late to get through Malabar and Canara before the monsoon. This disappointment is, however, of little importance, as there is nothing peculiar to Tinnevelly, either in the nature of its landed property or of its village administration. It has nothing, in either of these respects, which it does not hold in common either with Tanjore or Madura, and which has not already been noticed in speaking of these provinces. This opinion is founded both on the official reports of Mr. Lushington and on communications which I had with several natives of Tinnevelly and Madura, some of whom were landholders and others had been revenue servants. Tinnevelly, in the nature of the tenures of its villages, resembles Tanjore: in those of its dug villages and the rights of its heads of villages it is more like Madura. In its pollams, too, like those of Madura, but more particularly the smaller ones, there is no proprietary right but in the Poligar. The Ryots have no property in the soil, and are removable at pleasure.

44. It may be observed, with regard to the southern provinces, that though the term Potail is never used, and is little known among them, yet they always had heads of villages, who were in fact, under a variety of denominations, the same as Potails, and performed the same duties. These denominations, as has already been mentioned, are Prowurtah, Natumkar or Nattar, Ambulgar, Gour. The Prowurtah is applied only to Bramins, the Natumkar both to Bramins and Ryots, and the Ambulgar and Gour only to Ryots. These terms are universally understood in the southern provinces, and under one or other of them there is not a native south of the Cavery who does not describe the head of the village. In Tanjore, the Natumkar has by us been of late years confounded with the common landholder or Meerassadar. In Trichinopoly he is now called by us Pottahdar or Pottah-holder, because he gets the pottah for his village, but among the inhabitants he is always called by the old name. In Coimbatore the term Monigar, which was before confined to a few Poligar districts, has under the Company's Government been extended to the whole province. All fees have been resumed, and the heads of villages are paid a fixed allowance of money, and they have thus been converted, in fact as well as in name, from Gours or Potails into Monigars, for by Monigar is usually understood, not a head inhabitant of the village, but a revenue servant paid in money and dismissed at pleasure. Much confusion arises from this arbitrary adoption of new terms. We gradually lose sight of the nature of the office, which was sufficiently marked by the old ones, and we then seek for it in the new ones, to which it is entirely foreign. In order to obviate this inconvenience, it might be advisable to use, in the provincial records of the Collectors, the term by which the heads of villages have been most commonly designated by the natives of their respective collectorates.

45. The efficiency of the village system has undoubtedly been considerably diminished under the Company's government. In all the changes to which the country was subjected at different periods, by conquest, among the natives, the main points of the system were still preserved. The immediate management of the village was still left to its Potail or head-man, sometimes with more, sometimes with less authority; in some cases holding his office during his pleasure, but more frequently as an inheritance. We have almost everywhere reduced his authority. We have, in some districts, by constant removals, rendered the office more a temporary appointment and less an inheritance than before. We have, in others, resumed his fess and low rents and

monyem

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monyem lands, and put a stop to the voluntary assessments among the Ryots, and to the remission in his own rent, or in that of the village, which were usually granted where he had no monyem. We have, it is true, in some cases given him a money allowance, greater nominally than the amount of his old monyem, but less in reality, because land has been assigned to him in lieu of the money, which is either waste, or does not yield the equivalent.

46. The heads of villages are at present capable of carrying on all the duties required of them by the Regulations; but they would do it better if their situations were rendered more fixed and independent, which would give them more weight and respectability in the country, than they can possess when they are liable to removal at discretion. This might be effected by making the office hereditary, reserving however the power, in the case of the incapacity of the incumbent, of appointing the heir, or a member of the family, to act for him; by giving them service lands in lieu of money, wherever they held them before, and also wherever there is Government land for this purpose. The same rules should be observed with regard to the Curnum, the Tottie, and other village servants. Where the right of appointing the head of the village has long resided in the land-owners, it should be continued in them; but as it is a privilege which may be sometimes the source of dissension in villages, and detrimental to their property, it should be limited to those places where its long establishment is unquestionable. It is found chiefly in villages belonging to Bramins, whose ideas of equality dispose them more readily than the other castes to engage in parties and resist the authority of one of their number. Experience, however, shews that the right of removing their head-man is not necessary in Bramin villages, as there are many very thriving ones in which it does not exist; and this opinion appears to have been also very generally entertained by Indian Princes, because, in granting a village in Survamanyim to a community of Bramins, among the sharers or swastiums into which the village was divided there was usually one called the Yejamaun Swastium, the proprietor of which was of right the head of the village.

47. No general rate of allowances to the heads of villages would answer every where. In some provinces they are at present sufficient, in others too little, and in the same province more commonly both. It would, perhaps, be best to adopt different standards in different provinces, which in each might be regulated by ancient custom. In those villages where the head had service land and fees, or fees only, the usual amount of one or both might be taken as the standard for those villages in the same province, in which the heads had less of these or other allowances. But a careful inquiry will be necessary for procuring the requisite information, which can only be properly conducted by the Collectors, under the direction of the Board of Revenue.

48. In the course of my circuit, I have every where endeavoured to ascertain how far the new system was agreeable, or otherwise, to the inhabitants. From the constant and extensive communication I have had with them, I am convinced that there is not one in a thousand, and perhaps scarcely a man in the country, who is not pleased with the change. All classes expressed their satisfaction at being relieved from the police, and the vexations of its officers, and in some districts they spoke of it as a system of organized oppression. They expressed also much satisfaction at the modifications in the Judicial system, by which they are enabled, in so many instances where they wish it, to have their suits settled in their own villages or districts, instead of being obliged to consume their time in attendance at the zillah court.

I have, &c.

(Signed) THOMAS MUNRO,
First Commissioner.

Chinraypattan, 26th May 1817.

SECRETARY

SECRETARY *to* BENGAL GOVERNMENT *to* SECRETARY *to* MADRAS GOVERNMENT,

Dated the 18*th November* 1817.

To George Strachey, Esq. Chief Secretary to the Government of Fort St. George.

SIR:

Letter from Bengal Government, 18 Nov. 1817.

THE Right Honourable the Governor in Council of Fort St. George has been already informed, that in a letter dated the 9th of November 1814, the Honourable the Court of Directors have suggested to this Government the expediency of introducing various important changes in the system under which the administration of the police and of civil and criminal justice is at present conducted, within the territories immediately subject to the presidency of Fort William.

2. The alterations suggested by the Honourable Court being substantially the same as those which have been already carried into effect within the territories subject to the Presidency of Fort St. George, the Vice-President in Council is naturally anxious to ascertain in what degree the various changes in the administration of the police and of civil and criminal justice, which were introduced in the year 1816 into the territories dependent on Fort St. George, have been, or are likely to be productive of the benefits which were anticipated from them. The Right Honourable the Governor in Council of Fort St. George will perceive, from the accompanying copy of a letter addressed to the Honourable the Court of Directors, on the 7th February last,* that the Court have been apprized of the intention of this Government to apply for the information above adverted to; and I am now directed to request, that you will submit to the Governor in Council the wish of the Vice President in Council, to be informed how far the alterations adopted at Fort St. George have operated, or are likely to operate:

1st. In diminishing the aggregate expenses of the Revenue, Judicial, and Political establishments.

2d. In the prevention of crimes, and in facilitating the detection and punishment of criminals.

3d. In expediting and improving the administration of civil justice.

3. With reference to the second head, the Vice-President in Council wishes to be informed, whether the period, during which prisoners are detained in confinement under examination, is generally shorter than formerly? whether prosecutors and witnesses are now exposed to less inconvenience than heretofore, in attending to give their evidence before the magistrate and criminal courts? whether the existing Regulations provide effectually for the detection and punishment of abuses of power committed by the natives, to whom the charge of the village and district police is now entrusted, and whether such abuses are more or less frequently committed than formerly?

4. Under the third head, the Vice-President in Council is desirous to learn, what portion of the time of the zillah Judges is still occupied in duties connected with the criminal department, in their capacity of criminal Judges; whether they are enabled to devote more time to the business of their civil courts than heretofore: and whether the number of civil suits decided by the zillah Judges and Registers has been materially augmented, since the transfer to the Collectors of the charge of the police?

5. It will also be satisfactory to the Vice-President in Council to be informed, whether the tribunals of village and district punchayets, as organized under the provisions of Regulations V. and VII. 1816, are freely resorted to by parties in civil suits, in preference to the other civil courts; and whether the respectable classes of natives are readily disposed to act as members of the village and

* This letter from Bengal has been received and replied to.

and district punchayets, or whether it is found necessary to enforce the penalties to which persons declining or refusing to act in that capacity are rendered liable by the Regulations?

Letter from Bengal Government, 18 Nov. 1817.

6. In like manner, the Vice-President in Council wishes to be informed whether the renters of villages, who are *ex officiô* designated village Moonsiffs and village police officers, readily undertake the gratuitous duties which they are expected to discharge in the two latter capacities; and if so, whether there are grounds to suppose that they derive indirect emoluments or advantages from undertaking those duties?

7. The Vice-President in Council is also solicitous to know, whether past experience has shewn that the Collectors, especially in districts not permanently settled, have sufficient leisure to discharge with effect the various duties now entrusted to them; whether any material share in the management of the police is entrusted by the Collectors to their Assistants; and whether the aid of the additional European Assistants under the Collectors is likely to be required?

8. With reference to the period (eighteen months) which has elapsed since the introduction of the new system at Fort St. George, the Vice-President in Council conceives that the experience which the Board of Revenue and the court of Sudder and Foujdarry Adawlut must, in the course of their official duties, have obtained, with respect to the operation of that system, will enable them to report their sentiments on the points respectively appertaining to the Judicial and Revenue departments, without the necessity of any previous reference to the officers subordinate to them; and it will be satisfactory to the Vice-President in Council to be furnished, at as early a period as may be convenient, with the reports of those authorities, and with any observations on them which the Right Honourable the Governor in Council may judge it expedient to communicate to this Government.

I have, &c.

(Signed) W. B. BAYLEY,
Secretary to the Government.

Fort William, 18th November 1817.

SECRETARY *to* BENGAL GOVERNMENT *to* SECRETARY *to* MADRAS GOVERNMENT,

Dated the 10th March 1818.

To D. Hill, Esq. Secretary to the Government, Fort St. George.

SIR:

Letter from Bengal Government, 10 March 1818.

I AM directed by the Honourable the Vice-President in Council to acknowledge the receipt of a letter from you, dated the 4th ultimo, transmitting copy of a letter addressed by you, under the orders of the Honourable the Governor in Council of the 30th December last, to the Commission for the revision of the Judicial system at Fort St. George.

2. It will, of course, be satisfactory to the Vice-President in Council to receive a copy of the general report which the Commission were directed to prepare on the 19th of August last. Adverting, however, to the special duties on which Brigadier-General Munro has been, and is still engaged, the Vice-President in Council apprehends that some delay will probably occur in the early receipt of the report in question. The Vice-President in Council would, at all events, be desirous of being furnished with the sentiments of the Board of Revenue, and of the Sudder and Foujdarry Adawlut at Fort St. George, on the important questions adverted to in my letter to the Chief Secretary to the Government at Fort St. George, under date the 18th November last, and I am accordingly directed to request that, if the Honourable the Governor in Council is not aware of any particular objections to the measure, the Sudder and

Letter from Bengal Government, 10 March 1818.

Foujdarry Adawlut and the Board of Revenue may be respectively instructed to furnish the reports alluded to in the last paragraph of my letter of the 18th November last, with as little delay as practicable.

I have, &c.

(Signed) W. B. BAYLEY,
Acting Chief Secretary to Government.

Fort William, 10th March 1818.

SECRETARY *to* MADRAS GOVERNMENT *to* SECRETARY *to* BENGAL GOVERNMENT,

Dated the 24th April 1818.

To W. B. Bayley, Esq. Acting Chief Secretary to the Government at Fort William.

Sir:

Letter to the Bengal Government, 24 April 1818.

In further reply to your letter of the 18th November last, I am directed by the Right Honourable the Governor in Council to request that you will lay before the Honourable the Vice-President in Council the accompanying copy of the reply to the reference on the subject, which, as stated in my letter of the 4th February, was made to the Commission for the revision of the Judicial system, with copies of its enclosure. I am, at the same time, desired to acknowledge the receipt of your letter of the 10th ultimo, and to state that the Right Honourable the Governor in Council has resolved that a reference shall be made to the Sudder Adawlut and to the Board of Revenue, for information on the several points stated in your former letter.

I have, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 24th April 1818.

REPORT *of* Mr. GEORGE STRATTON,

Dated the 13th April 1818.

To the Chief Secretary to the Government, Fort St. George.

Sir:

Mr. Stratton's Report, 13 April 1818.

In my letter of the 21st ultimo, I stated that the official statements required to furnish the information called for by the Government at Fort William had been but recently completed and transmitted to the first Commissioner, with whom I was in communication, to afford the necessary information.

2. I have now the honour to transmit to you specific replies to the inquiries contained in the letter from the Secretary to the Government at Fort William, with six statements, numbered from one to six inclusive, to be laid before the Right Honourable the Governor in Council.

I have, &c.

(Signed) GEO. STRATTON,
Second Commissioner.

Madras, 13th April 1818.

Question.

Whether the period during which prisoners are detained in confinement under examination is generally shorter than formerly?

In

Answer.

Mr. Stratton's Report, 13 April 1818.

In criminal matters, the zillah Judge has been relieved, 1st, from all correspondence with police officers;* 2d, from receiving original complaints in any case of a criminal nature, except in cases in which a European British subject shall be a party;† 3d, from the cognizance of all petty offences and petty thefts;‡ 4th, from all disputes about boundaries and the forcible occupation of land or water for cultivation;|| 5th, from the cognizance of all criminal prosecutions against police and revenue officers, for extortion, oppression, or other abuse of authority;§ 6th, in the administration of civil justice, the zillah Judge has been relieved by the Village Moonsiff, Village Punchayet, District Moonsiff, and District Punchayet Regulations, from an infinite variety of suits of every description;¶ 7th, by the Sudder Aumeen Regulation from all original suits under three hundred rupees, which he may have filed himself and from all appeals against decisions of the district Moonsiff;** 8th, by the Boundary Regulation, from many suits regarding disputed boundaries and water for cultivation, prisoners were formerly, in many cases, detained long in confinement under examination, from the great press of business, both civil and criminal, before the Judges and Magistrates. From the relief afforded the zillah Judges in the administration of civil and criminal justice, as above shewn, if the detention of prisoners under examination, charged with heinous crimes, cognizable by the criminal Judge, should prove in any instance longer than under the former system, the delay cannot, with justice, be imputed to the existing laws.†† Heads of villages cannot detain any person in their custody longer than twenty-four hours; and Tehsildars are required to finish the examination of accused or suspected persons within forty-eight hours, if possible.‡‡ With regard to prisoners charged with petty offences punishable by the Collector, as Magistrate, the period during which prisoners are detained in confinement under examination must be shorter than formerly, as they are not required to make their examinations matter of record, when the punishment they may order shall not exceed two days imprisonment, or a fine of five rupees.|||| In cases of a trivial nature, heads of villages and Tehsildars have the power to dismiss the parties, or to punish the offenders.§§ In all these cases the parties, under the old system, were brought before the Magistrate; except the complainant desired to withdraw his complaint, and the defendant agreed to the complaint being withdrawn.¶¶

The Commission beg to refer to the Statement, No. 1, shewing the number of cases depending on the 31st December, before the Magistrates and criminal Judges, in the several zillahs, from 1813 to 1817 inclusive. By that statement it appears, that the number of prisoners in confinement under examination has materially decreased, under the new system, during the last two years.

Question.

Whether prosecutors and witnesses are now exposed to less inconvenience than heretofore, in attending to give their evidence before the Magistrates and criminal courts?

Answer.

The Commission on a former occasion observed, it is proper that the court for the trial of all important civil suits should be fixed, but for the hearing of complaints of personal injuries the court must be moveable.*** While the state of society and the character of the people of India remain what they are, no stationary tribunal can be of much use in this respect. It is only by going round the country, and visiting every part of it, that the Magistrate can ever learn one-tenth part of the injuries which the inhabitants suffer from police officers and other subordinate agents, or the wrongs to which the poor are subjected by their more powerful neighbours. A travelling tribunal is so far from being a hardship to the poor, that it is only by its coming among them that their

* Section 55, Regulation XI. 1816. † Section 3, Regulation IX. and Section 8, Regulation X. 1816. ‡ Sections 32 and 33, Regulation IX. 1816. || Section 51, Regulation XI. 1816. § Section 44, Regulation XI. 1816. ¶ Regulation IV. V. VI. and VII. 1816. ** Regulation VIII. 1816. †† Regulation XII. 1816. ‡‡ Section 5 and 27, Regulation XI. 1816. |||| Section 37, Regulation IX. 1816. §§ Section 10 and 23, Regulation XI. 1816. ¶¶ Section 24, Regulation XXXV. 1802.
*** Paragraph 10 to Government, 29 August 1816.

Mr' Stratton's Report, 13 April 1818.

their grievances are discovered, and that they have an opportunity of seeking redress. Were the tribunals fixed, most of them would be prevented by poverty or ignorance, or deterred by fear, from quitting their homes in order to complain. To render the Magistrate stationary, and at the same time to expect him to protect the inhabitants from outrage, would be to expect from him what no man in his situation could possibly perform. It would not be difficult to bring proof that even the most vigilant Magistrates have not, in such circumstances, been able to exercise any efficient control. With respect to heinous crimes and offences, the moveable nature of the Magistrate's tribunal will make no change in the mode of investigating them, as the prosecutors and witnesses will, as formerly, be sent direct to the zillah station by the Tehsildars.*

Question.

Whether the existing Regulations provide effectually for the detection and punishment of abuses of power committed by the natives, to whom the charge of the village and district police is now entrusted?

Answer.

Stationary as the Magistrate was by the former law, all the vigilance that could be exercised by him over distant servants could not effectually provide for the detection and punishment of abuses of power. The Magistrate was prevented from making local inquiries into abuses, which afford the best means of detecting and punishing them. The Commission made complaints for extortion, oppression, or other abuse of authority by heads of villages and other police officers, cognizable by the Magistrate only;† because the making them cognizable by the criminal Judge would produce collision, and would occupy too much of the time which ought to be devoted to his other duties, and because his authority, by being confined to the Magistrate, will give more efficiency to his office, and will be more likely to ensure speedy and certain punishment. It may be urged that the Magistrate will naturally be partial to his servants, and may sometimes be disposed to overlook their offences; but when this happens the injured party will still have the same remedy that he has now, by an action for damages in the civil court,‡ and he will be more likely to seek it than he is at present. In this respect the new Regulation will have an advantage over the old one, because it cannot be supposed that a person who brought a criminal charge before the zillah Judge, in his magisterial capacity, against any of his police servants, without obtaining redress, would be very forward in seeking his remedy by a civil action before the same Judge; but as the Judge and the Magistrate will hereafter be two distinct persons, he will not have the same motive to distrust the success of a civil suit. Under this view, the Commission are of opinion the existing Regulations provide more effectually for the punishment of abuses of power committed by the natives, to whom the charge of the village and district police is now entrusted, than the old Regulations did for the punishment of abuses of power committed by the police Darogahs and Thannahdars.

Question.

Whether such abuses are more or less frequently committed than formerly?

Answer.

It has been shewn that the modification of the law affords readier means for detecting and punishing abuses of power. Whether such abuses are more or less frequently committed under the new system than formerly, must also, in some measure, depend on the characters of individuals entrusted with the office of Magistrate and criminal Judge of the several zillahs. The Commission are, however, disposed to think that those abuses are less frequent now than formerly. With regard to the late Darogahs, they on a former occasion observed,‖ "We "know that they have been guilty of gross corruption and oppression in Coim- "batore, where they were watched with all the vigilance that could be exer- "cised over distant servants by a stationary Magistrate, and we have reason "to

* Section 27, Regulation XI. 1816.

† Paragraph 21, to Government, 25th June 1816.

‡ Section 44, Regulation XI. 1816.

‖ Paragraph 4, to Government, 28th February 1817.

Mr. Stratton's Report, 13 April 1818.

" to believe, from the general voice of the country, that their conduct has
" been similar in several other districts."

The first Commissioner left Madras early in the year 1817, and proceeded through the districts of Chinglepnt, South Arcot, Tanjore, Trichinopoly, Madura, Dindigul, Coimbatore, Malabar, and Canara; and in delivering his sentiments, as to whether the new system is in general acceptable to the great body of the people or not, he observed,* " In the course of my circuit I have
" every where endeavoured to ascertain how far the new system was agreeable
" or otherwise to the inhabitants. From the constant and extensive communi-
" cation I have had with them, I am convinced there is not one in a thousand,
" and perhaps scarcely a man in the country, who is not pleased by the change.
" All classes expressed their satisfaction at being relieved from the police and
" the vexations of its officers, and in some districts they spoke of it as a system
" of organized oppression. They expressed, also, much satisfaction at the
" modifications in the Judicial system, by which they are enabled, in so many
" instances where they wish it, to have their suits settled in their own villages
" or districts, instead of being obliged to consume their time in attendance at
" the zillah courts."

Question.

What portion of the time of the zillah Judges is still occupied in duties connected with the criminal department, in their capacity of criminal Judges?

Answer.

It has been already shewn to what extent relief has been afforded to the zillah Judges, both in civil and criminal matters. This relief affords them ample leisure for such business as comes before them in both departments, and enables them to devote to the civil or criminal department a larger or less portion of their time, as press of business in either may render expedient. This must vary in the different zillahs, from the different circumstances of each, as also from the characters of the local authorities, some disposing of business more expeditiously than others. As connected with the duties of the zillah Judges in the criminal department, a statement had been prepared, to shew the number of prisoners committed or held to bail in the several zillahs, to take their trials before the court of circuit, from 1813 to 1817 inclusive. By this statement, to which the Commission beg to refer, it appears, the number of criminal cases brought before the courts of circuit, during the last two years, is less than during the three former years; from which it may be said that the police, under the new system, is more efficient in the prevention of heinous crimes, or that it is less efficient than the old system, from persons concerned in heinous crimes not being apprehended. To estimate correctly both views of the case, two other statements have also been prepared, to which the Commission beg to refer. No. 3 shews the number of robberies and other crimes of a heinous nature, ascertained by the police officers, or otherwise, to have been committed within the several zillahs, from 1813 to 1817 inclusive; and No. 4, the number of criminal trials on which sentence has been passed by the Foujdarry Adawlut, during the same period. It appears by the Statement No. 3, that in 1815, when the Darogah and Thannahdar system of police had existed upwards of twelve years, and when it might be supposed more efficient than at any former period, that of the computed number of persons concerned in heinous crimes not one-half were apprehended, and that in 1816 and 1817, at the commencement of the new system of police, that of the computed number of persons concerned in crimes above one-half were apprehended.

Question.

Whether they are enabled to devote more time to the business of their civil courts than heretofore?

Answer.

A statement has been prepared of causes depending before the Judges, Assistant Judges, and Registers, from the 1st January 1814 to the 1st January 1818 inclusive,† to shew that, under the operation of the Regulations of 1816, the

* Paragraph 46, to Government, 26th May 1817. † Statement No. 5.

Mr. Stratton's Report, 13 April 1818.

the number of causes depending before the European authorities, on the 1st January last, have been reduced from 3,565, nearly half the number on the files on the 1st January 1814, 1815, and 1816. This circumstance alone must enable the zillah Judges and Registers to devote more time to the business of their civil courts than heretofore.

Question.

Whether the number of civil suits decided by the zillah Judges and Registers has been materially augmented since the transfer to the Collectors of the charge of the police?

Answer.

Since the enactment of the Regulations of 1816, the number of civil suits decided by the zillah Judges and Registers has materially decreased, and the number of civil suits decided by the native tribunals has materially increased. This is to be attributed to the Village Moonsiff, Village Punchayet, District Moonsiff, District Punchayet, Sudder Aumeen, and Boundary Dispute Regulations having relieved the zillah Judges and Registers from an infinite variety of suits of every description. An abstract statement has been prepared* of the number of causes decided by the European and native tribunals in the several zillahs, during the last five years, to which the Commission beg to refer, to shew the result of the old and the new system, both in respect to original suits and appeals. The Commission, on a former occasion observed,† "All Regu-" tions should, in the beginning, conform as nearly as possible to the existing " customs of the country, and be changed progressively with those customs. " Though justice is every where the same, the mode of dispensing it differs in " all countries, and that which is acceptable under one state of society may be " quite the reverse under another. We should, therefore, give to the native " villages and districts, Courts suited rather to the present state of society " among them, than to our ideas of what such Courts ought to be, and leave " them at liberty to follow their own choice, in seeking redress either from " those simple Tribunals, or from our regular Courts. The natives themselves " are the best judges of what is suited to their present condition, and the expe-" rience of a very few years will determine whether they prefer Courts founded " on their own institutions or those of Europe."

Question.

Whether the tribunals of village and district punchayets, as organized under the provisions of Regulations V. and VII. 1816, are readily resorted to by parties in civil suits, in preference to the other civil Courts?

Answer.

To what degree the village and district punchayets have been resorted to, compared with the other civil Courts, is shewn in the Statement No. 6, just referred to. The number of civil suits decided by village and district punchayets, since the enactment of Regulations V and VII 1816, to the 31st December last, amounts to four hundred and fifty-seven, which, considering how much punchayets have been in disuse of late years, appears to the Commission a greater number than could have been expected. It must, besides, be taken into consideration, that under the Punchayet Regulations there is no compulsory jurisdiction, as both parties must voluntarily agree to that mode of trial.‡

Question.

Whether the respectable classes of natives are readily disposed to act as members of the village and district punchayets?

Answer.

The natives, generally speaking, rich and poor, are bigotted to their own customs. The administration of justice by punchayet is known to them as an ancient custom, and it may therefore be inferred, that all classes of natives are disposed to act as members of punchayets. On a question of such importance, involving the opinions of thousands of natives, the best answer is from inference drawn

* Statement No. 6.

† Paragraph 32, to Government, 15 July 1815.

‡ Clause 2, Section 2, Regulation V. and Regulation VII. 1816.

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drawn from their known customs, to which they are generally attached;* "for "among them it is no more optional to decline sitting on a punchayet, than it "is in England to decline sitting on a jury. By the ancient usage of India, "every man, with the exception of a few individuals belonging to the religious "orders, is compellable to act on a punchayet. It is regarded as a duty which "he owes to the community, and which he ought to discharge without com- "pensation of any kind." These considerations induce the Commission to be of opinion, that the natives generally are disposed to act as members of village and district punchayets.

Question.

Whether it is found necessary to enforce the penalties to which persons declining or refusing to act in that capacity are rendered liable by the Regulations?

Answer.

Whether these penalties have or have not been enforced, has not come to the knowledge of the Commission; but admitting that, in some instances, the penalties have been enforced, the measure is sanctioned by the practice of the natives, for any person summoned to sit on a punchayet who does not attend is liable to a fine.

Question.

Whether the renters of villages, who are *ex-officiô* designated village Moonsiffs and village police officers, readily undertake the gratuitous duties which they are expected to discharge in their two latter capacities?

Answer.

Section 3, Regulation IV, 1816, prescribed, that the Potail, wherever he exists as Potail, shall be the Moonsiff, and that the renter or Collector shall be the Moonsiff only where the Potail has been set aside, and where the renter or Collector himself does in reality act as Potail.† Since the enactment of Regulation IV of 1816 to the 1st January last, 10,744 causes have been decided by village Moonsiffs.‡ As that Regulation becomes better understood, the advantages it offers to the poorer classes, of enabling them to have their petty disputes settled in their respective villages, will be more generally appreciated, and more causes will be settled annually by village Moonsiffs; but arguing on the number already settled during a period of about fifteen months in the different zillahs, it may be inferred, with justice, that the heads of villages readily undertake the duties expected from them under Regulations IV and XI of 1816.

On this subject the Commission some time past observed:§ "The Potails "have always been accustomed to perform whatever duties the Government "of the country thought proper to assign to them; we see, therefore, no "cause to apprehend their making any objection to those now proposed to "be allotted to them. It may easily, however, be conjectured, that if the "acceptance or rejection were left entirely to their own option, they would "retain their authority and all the higher duties of their office, and decline all "such as were likely to be attended with trouble and responsibility. They "will, we are convinced, be found not only as willing, but as competent to "discharge their duty, as can be expected from any body of men equally "numerous: indeed, there are no other instruments through which they "can be executed with so much convenience, both to the people and to "Government. Numbers of them will undoubtedly be found incapable: but "we should not look to the sufficiency of particular individuals, but to the "general result of the services of all. Some of the Collectors have said that "they are not willing, others that they are willing, but not fit, but the more "general opinion seems to be, that they are both willing and fit; and it is a "strong argument in support of this opinion, that those Collectors who have "had the best opportunities of knowing them, are those who speak most fa- "vourably of their employment."

The Police Committee, of which Mr. Fullerton was President, have observed,‖ "The head man, known in the southern provinces by the names of the Natamar, "Potail,

* Paragraph 8 to Government, 15 July 1815. † Paragraph 36 to Government, 20 April 1816.

‡ See Statement No. 6. § Paragraph 16 to Government, 20th August 1816.

‖ Paragraph 7 to Government, 5th May, 1814.

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" Potail, &c., and in the northern by those of Peada, Capoo, Naidoo, &c. " were generally the most considerable and wealthy inhabitants of their re- " spective villages. Their authority was universally acknowledged, and " matters in dispute among the other inhabitants, whether of public or private " concern, were referred to them for adjustment. 'The officers immediately " subordinate to them in the discharge of police duties within the village were " the watchers, called in the southern provinces Talliars, &c. in the northern, " Barkies, Dundassies, &c. In some villages more than one village watcher " has been found. In a very few the office has been reported not to exist; " though probably a more minute investigation might yet discover, in most of " those places, the existence of provision for a village watcher. Where several " have been found in the same village, and not at all bearing the same official " designation, a question may arise, whether they may all be considered " village watchers. This will be adverted to when we come to treat of the " duties which the persons above enumerated have to perform, as they are all " clearly village servants, acting under the orders of the heads of the village."

And again :* " Although the head inhabitant is thus invested by the ancient " institutions of the country with the controul of the village police, of which " the Talliar has been shewn to be a most efficient member, his authority has " not, we believe, been formally recognized by the Regulations, and the " Thannahdar has assumed that relation to the Talliar, in which the head-man " ought of right to stand. The reason is obviously this, that without his aid, " the Thannahdar is wholly inefficient. Still, however, the inhabitants regard " the Potail as their municipal chief, and the watchers still acknowledge him " as their rightful superior."

The Commission have shewn† "that the allowances of Potails are extremely " unequal in different collectorates; that in some they are chiefly in money, " in others in land, and that in some there are none. It is usual, however, " where their allowances in particular villages have either been done away, or " are much below the usual rate of the district to which they belong, for the " Potails to obtain a compensation, by holding their lands at a more favourable " rent than the ordinary standard; it cannot, therefore, be said the duties required " of heads of villages, as Moonsiffs and police officers, are gratuitous." On the subject of the allowances of the heads of villages, the Police Committee have also observed, " We are not aware that it will be necessary, in any instance, to pay the " head of a village. In most places, that officer has certain fees and allowances, " and when he has not these, he is probably the richest man in the village. " The authority which he will be now acknowledged to possess he has long vir- " tually held; he will not therefore require to be remunerated for being raised " in the public estimation.

Question.

And if so, whether there are grounds to suppose that they derive indirect emolument or advantages from undertaking those duties?

Answer.

The suits in which the village Moonsiffs have compulsatory jurisdiction do not exceed ten rupees. If we suppose that sixty thousand suits be annually brought before the village Moonsiffs, it would scarcely, on an average, give two to each Moonsiff.‡ This shews how little temptation a ten-rupee suit can present to corruption, and there seems no ground to suppose that a Moonsiff who had been once guilty of it could ever repeat the offence. The fine§ and the excessive loss of time would be sufficient to deter him, and his loss of character would prevent the inhabitants from bringing their suits before him in future. The zillah Judges are empowered to annul the decisions of village Moonsiffs, on proof of corruption or partiality;‖ but although 10,744 causes have been decided by village Moonsiffs since the enactment of the Village Moonsiff Regulation to the 1st January last, the Statement No 6 does not exhibit a single decision of the Judges in appeal from the decisions of village Moonsiffs; and it

* Paragraph 29 to Government, 5th May 1814. † Paragraph 51 to Government, 20th August 1816.

‡ Paragraph 43 to Government, 20th April 1816. § Section 35, Regulation IV, 1816.

‖ Section 29, Regulation IV, 1816.

it does not even appear, by the Statement No. 5, that any appeals were depending before the Judges on the 1st January last from the decisions of the village Moonsiffs:* from which it can hardly be doubted but that the inhabitants are satisfied with their decisions in general, or that though the village Moonsiffs may often be irregular in not adhering to the letter of the Regulations, much good has been done by giving to the inhabitants, by their means, the option of having their petty disputes settled in their respective villages.

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Question.

Whether past experience has shewn, that the Collectors, especially in districts not permanently settled, have sufficient leisure to discharge with effect the various duties now entrusted to them?

Answer.

Before the establishment of the zillah courts, the Collectors united in their own persons the offices of Judge, Magistrate, and Collector, and got through their business with efficiency and dispatch. By the new system they are relieved from the administration of civil justice, the cases specified in Regulation XII. 1816 excepted, which, being disposed of in a summary manner with little form, cannot occupy much of their time. With respect to criminal justice, prisoners charged with heinous crimes are now sent by the Tehsildars, with the prosecutors and witnesses, direct, as formerly, to the zillah station, for further examination by the criminal Judges or their assistants,† and the prisoners are by those authorities released, punished, or committed to take their trial before the circuit courts. The heads of villages and Tehsildars‡ relieve the Collectors from the cognizance of an infinite number of offences of a trivial nature, so that, compared with what formerly was the Collector's duty, the present system imposes on them fewer duties than might at first be supposed; and, under this view, the Commission see no reason to doubt the Collector's having sufficient leisure to discharge with effect the various duties now entrusted to them.

Question.

Whether any material share in the management of the police is entrusted by the Collectors to their assistants, and whether the aid of the additional European assistants, under the Collectors, is likely to be required?

Answer.

The Police Regulation‖ prescribes, that in Towns where, from the resort of Europeans, the employment of a native as Aumeen of police may be found insufficient, an assistant Magistrate shall be stationed, with the same police jurisdiction as is granted to the Magistrate, or such part of it as may be deemed expedient. Under this provision, the Collectors, no doubt, employ their assistants in police duties in the station referred to. But admitting even that the Collectors did not leave any share in the management of the police to their assistants, the Commission are decidedly of opinion, that two assistants, even under the old system, should have been attached to every Collector, as the best means of qualifying the junior servants the better to discharge the high office of Judge, Collector, and Magistrate.

1. The Commission are of opinion, that the six statements referred to in their answers to the queries from the Supreme Government, as exhibiting actual results drawn from figures, since the enactment of the Regulations of 1816 to the 1st January last, are sufficient to shew the superiority of the new system over the old, " in the prevention of crimes, and in facilitating the detection " and punishment of criminals," and " in expediting and improving the admi- " nistration of civil justice."

2. The Commission now proceed to reply to that part of the letter from the Supreme Government, requesting to know " how far the alterations adopted

* Paragraph 7 to Government, 20th December 1817. † Section 27, Regulation XI. 1816.
‡ Section 10 and 23, Regulation XI. 1816. ‖ Section 41, Regulation XI. 1816.

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"have operated, or are likely to operate, in diminishing the aggregate expense "of the Revenue, Judicial, and Police establishments?"

The principal expense attending the new system is that of the district Moonsiff's establishments, amounting to Star Pagodas 22,968, which the Commission, on their first institution, observed, will be more than covered by the abolition of the four assistant Judgeships, and the court of Cochin, with their respective establishments, as recommended by them on the 25th June 1816, and which they estimated at Star Pagodas 30,409, the amount at which they stood on the 30th April 1815.*

4. The Commission have, at different times,† shewn the diminution of expense, by the transfer of the police establishments to the Collectors, and by the abolition by law ‡ of the offices of police Darogahs and Thanadars, which they estimate at about Star Pagodas 33,816: but the Commission observed, in their letter to Government of the 21st July 1817, "it is obvious that no just comparison "can be made under a partial revision, as not only some of the police servants "retained by the Judges might be reduced, but also a part of the establish- "ments employed in the administration of civil justice, the Judges being "generally relieved, under the operation of the new laws, from a great mass of "business, both in civil and criminal matters." As that revision remains yet to be made, and as further experience of the advantages attending the union of the police and revenue establishments may admit of further reductions in both those departments, the Commission regret it is not at present in their power to shew exactly "how far the alterations adopted have operated, or are likely "to operate, in diminishing the aggregate expense of the Revenue, Judicial, "and Police establishments."

5. The Commission, however, recommend that the Accountant-General be directed to submit to Government a statement of the actual amount of the Revenue, Judicial, and Police establishments, during the present official year, ending the 30th of this month, contrasted with the amount of the charges incurred in those departments, respectively, during the four preceding years. From the amount of the Judicial charges should be deducted the expenses of the Commission for the revision of the Judicial system, as being a temporary charge; the expense of any assistant Judgeships and zillah courts, with their respective establishments, it may be in the contemplation of Government hereafter to abolish; and from the amount of the Police establishments should be deducted the expense incurred by any increase to those establishments for the protection of the frontiers, in consequence of the existing Mahratta war, or of the former irruption of the Pindarries into the Company's possessions.

6. A comparative statement of the actual charges in the Revenue, Judicial, and Police departments, for five years, prepared on this principle, with the six statements the Commission have now the honour to submit, will, they conceive, shew to the Supreme Government how far the alterations adopted at Fort St. George have operated, or are likely to operate.

1st. In diminishing the aggregate expenses of the Revenue, Judicial, and Police establishments.

2d. In the prevention of crimes, and in facilitating the detection and punishment of criminals.

3d. In expediting and improving the administration of civil justice.

7. The Commission beg, however, respectfully to state, that the new system has had but little more than twelve months practical operation, and that, should the statements referred to carry conviction of its superiority over the old, some further time should, in justice, be allowed to see its full effects.

(Signed) GEO. STRATTON,
Commissioner.

Fort St. George,
13th April 1818.

* To Government, 29th June and 20th November 1816, and 29th September 1817.
† To Government, 21st July, 8th, 14th, and 30th November, 11th December 1817.
‡ Section 3, Regulation XI, 1816.

Mr. Stratton's Report, 13 April 1818.

(No. 1.)—A Statement of the Number of Criminal Cases depending before the Magistrates and Criminal Judges, in the several Zillahs under the Presidency of Fort St. George, from 1813 *to* 1817, *inclusive.*

Years.	Number of Cases depending on the 31st December.	Number of Persons under Bail.	Number of Persons in Confinement.
1813	620	760	1,235
1814	606	586	1,680
1815	534	874	1,427
1816	125	81	249
1817	89	53	213

(Signed) R. CLARKE,
Acting Register.

(No. 2.)—A Statement of the Number of Prisoners committed or held to Bail by the Magistrates and Criminal Judges of the several Zillahs under the Presidency of Fort St. George, to take their Trial before the Courts of Circuit, from 1813 *to* 1817, *inclusive.*

Years.	Number of Criminal Cases.	Number of Prisoners concerned.	Number of Prisoners in Jail.	Number of Prisoners on Bail.
1813	1,129	2,645	2,500	145
1814	978	2,294	2,148	146
1815	1,009	2,333	2,248	85
1816	808	1,897	1,763	134
1817	554	1,115	1,038	77

(Signed) R. CLARKE,
Acting Register.

(No. 3.)—A Statement of the Number of Robberies, and other Crimes of a heinous nature, ascertained by the Police Officers, or otherwise, to have been committed in the several Zillahs under the Presidency of Fort St. George, from 1813 *to* 1817, *inclusive.*

Years.	Number of Crimes.	Computed Number of Persons concerned.	Number apprehended.
1813	2,348	7,235	3,008
1814	3,137	7,124	4,190
1815	2,021	10,422 *	2,624
1816	1,117	3,068	1,735
1817	2,364	8,692	4,368

(Signed) R. CLARKE,
Acting Register.

(No. 4.)

* In explanation of the disproportion which appears between the number of persons concerned in crimes, and the number of persons apprehended in 1815, it may be proper to observe, that in the abstract statement from Masulipatam for that year, the Magistrate included the computed strength of a body of predatory horse, amounting to 4,392, of whom only thirty were apprehended.

Mr. Stratton's Report, 13 April 1818.

(No. 4.)—A Statement of Criminal Trials on which Sentences were passed by the Foujdarry Adawlut, from the year 1813 *to* 1817.

Years.	Number of Trials.	Number of Prisoners on whom Sentence has been passed.					
		Deaths.	Transportation.	Imprisonment.	Released on Security.	Released.	Totals.
1813	131	49	116	121	...	121	407
1814	91	70	44	44	...	75	233
1815	149	39	58	57	37	235	426
1816	89	24	5	18	20	105	172
1817	95	38	10	31	15	97	191

(Signed) R. CLARKE,
Acting Register.

(No. 5.)—Statement of Causes depending before the Judges, Assistant Judges, and Registers.

Years.	By the Judge, in Appeal from the decision of					By the Assistant Judge, in Appeal from decision of					Under Trial, in the first instance, before			Total before the Judges, Assistant Judges, and Registers.
	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The Village Moonsiffs.	Former Commissioners.	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The Village Moonsiffs.	Former Commissioners.	The Judge.	The Assistant Judge.	The Register.	
1st Jan.														
1814	233	...	...	...	1,497	11	...	...	...	23	1,824	178	2,481	6,247
1815	273	...	...	...	1,586	6	...	...	...	142	2,007	349	2,285	6,648
1816	369	...	...	...	1,568	11	...	...	...	141	1,906	367	2,114	6,476
1817	430	359	4	...	829	35	...	...	...	165	1,220	150	1,411	4,603
1818	372	454	187	...	277	40	76	109	...	13	1,005	35	997	3,565

(Signed) R. CLARKE,
Acting Register.

(No. 6.)

(No. 6.)—*General Abstract Statement of the Number of Causes decided by the Zillah Courts and Native Tribunals, from the year* 1813 *to* 1817.

By the Judge, in Appeal from Decision of										By the Assistant Judge, in Appeal from Decision of										Tried, in the first instance, by						Total before the Judge, Assistant Judge, and Register.	By the Sudder Aumeens, in Appeal from the Decisions of the Native Commissioners, &c.		Tried by the Native Commissioners, &c. &c. &c.												Total.
The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Judge.		The Assistant Judge.		The Register.					Former Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.		
Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.		Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	
95	12	448	68	..	..	..	..	..	..	3	2	14	2	..	..	..	..	..	..	1,348	517	29	34	1,390	701	4,663	..	..	14,902	9,986	..	..	..	..	..	..	..	..	..	..	24,888
187	16	556	94	..	..	..	..	..	..	5	3	63	17	..	..	..	..	..	..	1,501	525	123	42	1,497	688	5,317	..	..	16,801	9,916	..	..	..	..	..	..	..	..	..	..	26,717
[illegible]	17	780	108	..	..	..	..	..	..	14	..	185	64	..	..	..	..	..	..	2,347	846	384	82	2,176	738	7,928	..	..	21,571	9,116	..	..	..	..	..	..	..	..	..	..	30,687
186	24	[illegible]	103	39	7	..	..	..	..	34	1	99	21	..	..	..	..	..	..	2,623	454	277	23	1,914	595	7,195	125	69	23,511	8,448	1,385	497	3,189	1,944	..	..	286	165	64	31	39,520
269	38	294	35	40	39	77	12	..	..	34	2	94	18	7	2	..	..	..	..	1,263	256	46	24	1,416	383	4,749	728	91	825	932	3,862	1,358	30,948	16,903	100	12	6,981	3,312	214	36	65,483

(Signed) R. CLARKE,

Acting Reg

SECRETARY *to* MADRAS GOVERNMENT *to* SECRETARY *to* BENGAL GOVERNMENT,
Dated the 8th May 1818.

To B. Bayley, Esq. Chief Secretary to the Government at Fort William.

Sir:

Letter to Bengal Government, 8 May 1818.

With reference to my letter of the 24th ultimo, I am directed, by the Right Honourable the Governor in Council, to request that you will lay before the Honourable the Vice-President in Council the accompanying copy of a letter from Mr. Stratton, Commissioner for the revision of the Judicial system, with the report of the proceedings of the Commission therein referred to. The Governor in Council conceives that these papers may be useful, in supplying the information applied for in your letters of the 18th November and 10th of March last.

I have, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George, 8th May 1818.

REPORT *of* Mr. G. STRATTON,
Dated the 21st March 1818.

To the Chief Secretary to the Government, Fort St. George.

Sir:

Mr. Stratton's Report, 21 March 1818.

1. I have the honour to acknowledge the receipt this day of Mr. Secretary Hill's letter of the 17th instant, desiring me to submit "immediately" the report called for, under the orders of Government of the 19th of August and 30th December last.

2. Two causes have prevented the completion of the report required by Mr. Secretary Hill's letter of the 19th of August; first, the First Commissioner's absence from the Presidency since July, and full employment in other important duties; and secondly, the necessity of waiting for the official statements of the last year being received at the Sudder Adawlut office, to enable the Commission to incorporate in that report specific replies to the queries from Fort William, as required by Mr. Secretary Hill's letter of the 30th December.

3. The official statements required have been but recently compleated and transmitted to the First Commissioner, with whom I am in communication, to afford the information required by the Government at Fort William.

4. An abstract report having, however, been prepared, distinctly referring to the Commissioner's past proceedings, as required by Mr. Secretary Hill's letter of the 19th August, I have the honour to forward it for the information of Government and of the Honourable the Court of Directors.

5. The Commission stated, in their address to Government of the 20th of December last, to what extent Regulations IV. V. VI. VII. and VIII. of 1816 were "in practical operation" on the 1st of October; a comparative statement of the number of causes decided by the zillah courts and native tribunals, during the year 1815, when the old system solely prevailed; in 1816, when the new system was partially introduced; and in 1817, when it came into more general operation, having been recently * submitted by the Sudder Adawlut to Government. I here subjoin an abstract of that statement, with a view

* 19 February 1818.

view further to exhibit to what extent the new Regulations were "in practical "operation" on the 1st January last.

Mr. Stratton's Report, 21 March 1818.

Years.	Number of Causes decided by the Zillah Judges and Registers.	Number of Causes decided by the Native Tribunals.	Total.
1815	7,928	30,687	38,615
1816	7,195	39,714	46,909
1817	4,749	66,302	71,051

6. The statement referred to shews, that since the enactment of the Village Moonsiff and Punchayet Regulations, in 1816, to the 1st January last, 10,744 causes have been settled by village Moonsiffs, and 457 by village and district punchayets.

7. The half yearly statements forwarded to Government, with the Sudder Adawlut's proceedings of the 21st ultimo, exhibit the practical operation of the new laws, both in respect to original suits and appeals, during the last half of the year 1817, contrasted with the same period of the preceding year.

8. I beg to draw the attention of the Right Honourable the Governor in Council to those several statements, as affording most satisfactory evidence of the beneficial effects of the Regulations of 1816, in the administration of civil justice.

I have, &c.

(Signed) GEO. STRATTON,
Commissioner.

Madras, 21st March 1818.

1. The Honourable the Court of Directors, in their dispatch of the 29th April 1814 to the Government of Fort St. George, observed * that the modifications which they were about to prescribe in the system of judicature of late established in the territories of Fort St. George, did not involve the introduction of any novel or untried principle, nor any essential departure from an ancient and long established order of things, but rather the revision and amendment of one of recent creation; that the provisions of the Judicial code, beneficial as they have proved in some particulars, have yet failed in the accomplishment of the ends they had in view, both in Bengal and the territories subject to Fort St. George, and that a reference to the actual population of the country, and the number of suits decided and remaining undecided within the year, sufficiently shewed † "how disproportioned the existing means of "judicial administration are to the wants and necessities of the people."

2. The Court remarked,‡ that an European must labour under great disadvantages in the administration of justice among a people so peculiar in their habits, their ideas, and customs, and with whose dialects it is in vain to expect we can ever become sufficiently acquainted; that this must render the proceedings of the European Judge liable to great error,|| and must, in a great measure, reduce him to a dependence on the native officers of the court, which in various ways will tend to the abuse and perversion of the ends of justice; and that, from the inability of the Judges to follow readily what passes in the progress of hearing a cause, great dilatoriness must arise in the dispatch of business.

3. The Court further remarked, that what also occasions the great arrears of suits, in both European and native tribunals, "is the process and forms by "which justice is administered,"§ which are the same as those of the superior tribunals in England, and pass under the same names; that the pleadings of the courts are almost in every case, written, as well as the evidence of witnesses; that such a tedious mode of proceeding must be incompatible with promptitude, and the tardiness with which causes are brought to a settlement must, in innumerable instances, be a greater evil than the injury sought to be redressed;

* Paragarph 4. † Paragraph 10. ‡ Paragraph 15. || Paragraph 16. § Paragraph 17.

Mr. Stratton's Report, 21 March 1818.

redressed; and that the frequent visits which the litigant parties are under the necessity to make to the court, during the progress of the cause, is a grievance of no ordinary magnitude to the suitors, and those who may be summoned to give evidence, and operates with peculiar severity on the heads of villages; that the forms of proceedings prescribed by our system of civil judicature are new to the natives, "to whom justice was used to be administered according to simple "rules and in a summary manner;" that the general unfitness of the natives to conduct their own causes in tribunals, whose proceedings are conducted by such intricate rules, has led to the appointment of Vakeels or licenced pleaders to each court, which although intended for the convenience of suitors, is accompanied with injurious effects, from these Vakeels depending for their subsistence on the encouragement of frivolous and vexatious disputes.

4. The Court therefore directed the Government to revise the forms of process, "with the view of rendering the proceedings in civil cases as summary "as may be compatible with the ideas of substantial justice;"* and they observed, that they were not prepared to do away the class of licensed Vakeels, but expressed a desire that the subject should be maturely considered by the Government and the Sudder Court, with a view of devising, if possible, a remedy for an evil so generally acknowledged.

5. The Court next alluded to the latitude of the appeal allowed from the decisions of the Registers and Judges of the zillah courts, and directed the revival of the restrictions which formerly existed; but with regard to special appeals, they left the Government at liberty to extend the provisions of the code to any necessary case not comprehended within them.

6. With regard to the charges to which legal proceedings are subjected, the Court remarked, they were disposed to believe that, though those charges have served to diminish the number of vexatious suits, that they have, at the same time, had the effect of deterring many from seeking judicial redress for real injuries, on account of their inability to support the costs which necessarily accompany the means of obtaining it.

7. Having adverted to the most obvious defects in the present system, the Court stated that they were induced to think the remedy most applicable to them, as far as the administration of civil justice is concerned, may be obtained, in a degree commensurate to the necessities of the people, by such a modification of the present judicial system itself, as shall consign a great part of the business now conducted by the zillah and provincial courts to intelligent natives, through whose agency the means of administering justice might be enlarged, and a foundation laid for diminishing the expense attending the existing establishments; that they were led to recognize in the Potails or heads of villages, and the village Curnums or Registers, "the most powerful instru"ment that any Government can possess for conducting the detailed operations "of its internal administration, as well in regard to the distribution of justice "as the direction of the police;" that through this agency the frame and constitution of the village communities, of which all India is composed, has been held together for many centuries; that they are the natural and permanent authorities of the country, and that true policy dictates the expediency of our availing ourselves of their services, for it is thus only that the business of Government can be adequately conducted in India, where the population is so extensive and the habits of the people so different from our own.

8. The Court were of opinion, that the agency of natives appointed to act as Commissioners, with jurisdiction in matters of property to a limited amount, paid as they are inadequately by fees for the performance of very responsible duties is less eligible than that of heads of villages acting within the limits of their own municipalities. They observed, that they were far from meaning to detract from the efficiency of the native branch of the Judicial system; but that the fact adduced by the Sudder Adawlut of Fort St. George, "that the subor"dinate native judicatories are operative, to a very great degree, in promoting "the general and speedy distribution of civil justice, in causes, though small, "yet of infinite importance to the parties," demonstates the necessity of availing

* Paragraph 23.

Mr Stratton's Report, 21 March 1818.

availing ourselves of the instrumentality of the natives in the administration of civil justice, " to a greater extent than has hitherto been done.*

9. The Court observed, that the Potails and Curnums of villages have been in the constant habit of administering justice in their villages, which they cannot doubt they would again gladly execute, because it was inseparably connected with the consequence that belonged to them; that its being committed to other hands must impair their influence, and render a numerous body of men dissatisfied, if not disaffected to the British Government, and whose support and attachment the Court considered of more importance to the internal security of the country than even the strength of their military establishment; and that to restore a form of judiciary administration familiar to a people, distinguished by their adherence to ancient customs, would be most acceptable, and relieve the inhabitants from those vexations to which they are at present subject from the want of the ready means of judicial redress.

10. The Court observed, that as the punchayets, or native juries, appeared to have uniformly prevailed under every native government of India, it was necessary that they should make a part of any consideration involving in it a return to the ancient form of judicial administration, and they quoted the authorities of several able and experienced civil and military servants on the practical utility of the punchayet institutions.

11. The Court remarked, that the great argument which had been alleged against entrusting the natives with judicial authority was their proneness to corruption, but that the cause was attributable to the relaxed management of the affairs of civil administration under the native Governments, in the more modern periods of their history, as it related to judicature, to police, or to revenue, and that under a vigilant and active superintendence and control, the Potails and Curnums, assisted by the punchayets, might be advantageously employed in the administration of justice, without a recurrence to former abuses.

12. The Court conceived that the Potail might, by virtue of his office, execute the functions of Commissioner within his village, in the several modes, and under the rules prescribed by the Regulations, and subject to the same limitations as to the amount litigated: that in all cases coming before a Potail, either party should have the power of requiring the assembly of a punchayet: that the zillah court, in some cases referred by them to the Potail, might prescribe that mode of trial with a right of appeal, and that it should be at their discretion to refer boundary disputes and other cases of a particular description, not exceeding an amount to be specified, to the Potail and punchayet for final adjustment: that the amount to which the decisions of the punchayet might be rendered final should, in the first instance, be very small: that the Potails and punchayets should be empowered to act as arbitrators, without limitation as to amount, in all cases brought before them by voluntary consent, under bond of engagement to abide by the award pronounced, without appeal, except in cases of alleged corruption or partiality, proved to the satisfaction of the zillah court: that in allowing an appeal from the village to the zillah court, it was not intended that the judgment of the former shall be stayed pending the appeal, except under special circumstances, at the discretion of the zillah Judge: that in all cases not exceeding a certain amount to be fixed, the decision of the Potail and punchayet be carried into effect: that with a view to diminish the number of appeals to the European Judges, natives worthy of trust might be invested with original jurisdiction over districts, in suits for personal property not exceeding two hundred Arcot rupees, for malguzary to the same amount, and for lackerage not exceeding twenty Arcot rupees: that of those native Judges there might be three, four, or five to a zillah on fixed salaries, with fees: that their original jurisdiction might be final, to the extent of five pagodas, and their appellate jurisdiction to the extent of ten pagodas: that they should be assisted by punchayets, on a larger scale than that of the village, so as to have a greater selection of persons to exercise that function, as all the inhabitants of a village may possibly be connected with one or other of the litigant parties;

* Paragraph 44.

Mr. Stratton's Report, 21 March 1818.

parties; and that the jurisdiction of the superior native judicatories might be final, in suits instituted in the zillah courts which the Judges may deem proper to refer to them.

13. The Court observed, that by reverting to the established practice under the native Government, of employing the heads of villages and punchayets in the administration of justice, they were persuaded they should confer the most solid benefit on their native subjects, and relieve the European Judges from that weight of judicial business, the pressure of which must necessarily have compelled them to depend, in a great degree, on the officers of their courts, who are open to various temptations to abuse their trust; and that, by the admission of Potails and Curnums to municipal administration, "the inhabitants will "have their complaints inquired into at their very houses," and that the best practicable facilities will thus be afforded to a prompt and satisfactory administration of justice.

14. In order to appreciate the effect of those several measures, the Court directed a yearly or half-yearly report to be made of the nature and number of suits instituted in the several courts, distinguishing whether they have been decided or dismissed, and if appealed, whether confirmed or reserved.

15. The Court having thus signified their sentiments and instructions respecting the system of civil judicature, pursued "the same course with reference to "the administration of police."* They adverted to many authorities on the utility of the Talliar office, as forming in every village the best security of internal police, acting under the influence of the Potails and Curnums. They remarked, that Talliar police secures the aid and co-operation of the people at large in the support and furtherance of its operations, because it is pursued in a mode which adapts itself to their customs, and that any system which has been or may be resorted to for the general management of the police of the country, which is not built on that foundation, must be radically defective and inadequate; that the preservation of social order and tranquillity never can be effected by the feeble operations of a few Darogahs and Peons stationed through an extensive country, wanting in local influence and connection with the people, insufficiently remunerated to induce respectable men to accept the office, placed beyond the sight and controul of the Magistrate, and surrounded with various temptations to betray their trust. This system, the Court observed, has had a fair trial in the Bengal provinces, and whenever "the Magistrates "have had no other agency to depend upon, open and daring robberies and "every kind of individual outrage have prevailed."

16. The Court therefore directed, that measures be taken in the zemindarry countries to re-establish the village police, agreeably to the usage of the country, and that, in such part of the Madras possessions in which it may be found in a neglected or mutilated condition, it be also restored to its former efficiency, from which they anticipated not only a reduction of the greater part of the present Darogah establishment, but also of the police corps, still maintained at a heavy expense. The Court further stated, that they should not object to the Government availing themselves of the influence of the Zemindars in the support of the police, by investing them with police authority, since, to exclude them from a system founded on native agency, would be mortifying to them, and not improbably excite their endeavours to frustrate the intended object.

17. The Court next adverted to the expediency of transferring the superintendence and controul of the police of the zillahs to the Collectors of the Revenue, and adduced arguments and authorities to prove that these two branches of the service are paralized, by a separation of powers which, under every native Government, and even under our own till of late years, were united in one person; and they conceived that all the arguments and considerations which have been urged in favour of vesting the general superintendence of the police in the Collector, equally apply, in principle, to the employment of the Tehsildars as their immediate agents, who should be the link between the Magistrates and the village officers, aided, as occasion may require, by the Aumildars' Peons, and in large towns by the Cutwals and their Peons.

18. The

Mr. Stratton's Report, 21 March 1818.

18. The Court, in stating their ideas on some points connected with the administration of criminal justice, considered it to be one great advantage which will attend the modifications of the existing system of civil judicature to be adopted, that they will so much relieve the Judges of the provincial courts from the duties which they have to discharge in hearing appeals from the decisions of the zillah Judges, as to leave little more to attend to than the criminal business of the circuits, which had, in some instances, been so heavy, that the half-yearly circuits had not been completed within the prescribed period. They were strongly of opinion, that it would very much conduce to the more prompt administration of criminal justice, if the zillah Judges were to be so far invested with a jurisdiction in criminal matters, as to enable them to hear and determine all cases of public offence not of a capital nature, and now cognizable by the courts of circuit only, which might be brought before them by the Collector in his magisterial capacity, with a limitation, in regard to corporeal punishment, to fifty rattans, in regard to fines, to two hundred Arcot rupees, and to imprisonment, to one year: that the same important end would be materially furthered, were the Collectors, acting as Magistrates of zillahs, to be empowered to punish offenders by corporeal punishment to the extent of thirty rattans, by fine not exceeding one hundred Arcot rupees, and by imprisonment not exceeding three months; and they authorized the Government to associate the Collector with the zillah Judge in the trial of offences at quarterly sessions, should they deem the measure expedient.

19. The Court observed, that it was matter for consideration, whether in certain criminal cases the sentence of the provincial courts of circuit might not be carried into immediate execution, and whether the present form of proceeding in the courts of circuit would not admit of simplification; and that, in addition to the advantages which they contemplated from the employment of Collectors in the administration of criminal justice, they were satisfied of the necessity of that arrangement, as the finances of the Company were not equal to the pressure of the present large establishments, and they trusted that, by the improved system of judicial administration, the office of Assistant Judge may at once be abolished.

20. They referred* to their former observations as to the enforcement of the Regulation concerning pottahs, which should be under the Collector, as Magistrate; and they observed, that the Regulation respecting distraints required revision and amendments: that the observance of the pottah Regulation would afford the best safeguard against improper distraints; that no demand of a Zemindar, &c. for arrears of rent should be receivable in any court but on a pottah, nor should he be permitted to sell under distraint without an order from the Collector, and that the Collector should further have the nominal jurisdiction in cases of disputed boundaries, to decide them on the verdict of a punchayet.

21. Colonel Munro was appointed by the Government of Fort St. George First Commissioner of internal administration, and was directed to report on the means which he deemed best calculated for carrying into effect the modifications specified in the Court of Directors' dispatch of the 29th April 1814, to report occasionally how far these modifications, when introduced, may appear to answer the end of their adoption, and, generally, on every point which he thought might contribute to the improvement of the present system; for which purpose he was further directed to correspond with the several judicial and revenue authorities, and to visit the districts as often as he might deem it expedient.

22. Colonel Munro, in acknowledging the receipt of these instructions, observed, that the modifications ordered to be made in the police and magisterial departments appeared to be the objects that first claimed attention; but before he could venture to submit any proposition for carrying the orders of the Court into effect, it would be necessary to make himself acquainted with the present state of those departments, for which purpose he requested to be furnished with the proceedings of the Committee of general police, which sat in 1805 and 1806, and all the reports and statements on which their report was founded, and also

* Revenue letter, 16th December 1812.

Mr. Stratton's Report, 21 March 1818.

also those received in consequence of the circular letter of the Chief Secretary of the 28th November 1811.

23. With a view to ascertain whether or not the orders of the Court of Directors might not already have been in some points anticipated by Government, Colonel Munro perused all the proceedings and reports he had required, and observed, in his address to Government,* that as many of the answers to the Chief Secretary's circular letter were defective in their statements of the strength of the village police establishments, and of the funds available for their maintenance, as any information tolerably accurate on this head could not be got without a tedious investigation on the spot, and as it would be necessary to alter many of the existing Regulations, he submitted to Government the expediency of appointing another Commissioner for the accomplishment of these objects.

24. In a subsequent address,† Colonel Munro stated that several important improvements in the existing system of police had been suggested by both Committees of Police, but none had yet been carried into effect, nor had any of the amendments ordered to be made by the Court of Directors, in their dispatch of the 29th of April last, been rendered unnecessary by any late Regulations of Government: that as the whole subject of that dispatch still remained for consideration, he submitted to Government an abstract of its contents, exhibiting under two heads, first, all those matters which Government, after referring to the Sudder Adawlut and subordinate courts for their opinion, were to adopt or reject, as they thought proper; and secondly, all those on which the orders for carrying them into effect were imperative.

25. Of the last class, the First Commissioner observed, the alteration of the most importance was the transfer of the police and magisterial duties from the zillah Judge to the Collector; and he recommended that the Sudder Adawlut should be directed to prepare, without delay, a Regulation for that purpose, and that they might afterwards be directed to prepare six separate Regulations to give effect to the other arrangements ordered by the Court of Directors, proceeding in the order of their relative importance. He stated the object of each Regulation, which, together with the one for transferring the authority of Magistrate to the Collector, would comprize all the points on which the Court's orders were positive, and which required immediate attention.

26. On the 3d of January 1815, the Right Honourable the Governor in Council was pleased to appoint Mr. George Stratton Second Member of the Commission and Third Judge of the Sudder and Foujdarry Adawlut, with orders to divide his attention between the separate duties with which he was charged, in such manner as, in communication with the other Judges and the First Commissioner, he might have reason to believe to be the most expedient for the public service.

27. The report submitted by Colonel Munro rendered it necessary for the Governor in Council to take a survey of the whole contents of the Honourable Court's dispatch, divided into three separate branches, viz. the established system of judicature, the present police arrangements, and the administration o criminal justice. The Government assigned to the Sudder Adawlut, the Board of Revenue, and the Commission, the measures which, in pursuance of the Honourable Court's orders, they were respectively called upon to execute.

28. These measures, and the Regulations required, were distinctly stated under eighteen separate Resolutions; and the Commission were directed,

Under the first Regulation, previously to preparing the draft of a Regulation for establishing village courts, to ascertain, first, whether the office of Potail universally existed and was vested in one person; secondly, whether the Potail be willing to undertake the duty proposed to be assigned to him; thirdly, whether the mauniums, fees, and shares of produce, which are supposed to constitute the recompense of his labours, were in all cases still continued.

Under the second Resolution, the Commission were required, previously to preparing a draft of a Regulation for establishing district courts, to ascertain whether

* Letter to the Chief Secretary, 13th December 1814.

† Letter to the Chief Secretary, 24th December 1814.

whether there were individuals possessed of sufficient rank and respectability to preside over them.

Under the eighth Resolution, the Commission were required, previously to preparing a draft of a Regulation for carrying the arrangement respecting the village police into effect, to ascertain, first, whether the Talliars were sufficiently numerous; secondly, whether they were sufficiently remunerated; thirdly, whether the Potails were fit to be entrusted with the charge of the police of their villages; fourthly, whether they were willing to undertake it.

Under the ninth Resolution, the Commission were required to furnish a statement of the whole charges, of every description, including cavelly and other fees, mauniums, and shares of produce, formerly incurred on account of municipal establishments, which might from time to time have been resumed under the revenue arrangements of the Madras Government.

Under the tenth Resolution, the Commission were required to provide for the employment of Zemindars in the duties of police.

Under the eleventh Resolution, the Commission were required to prepare the draft of a Regulation for transferring the superintendence and controul of the police to the Collector. Colonel Munro having stated that the transfer was to include not merely the superintendence and controul of the police, but also the whole duties of the Magistrate, the Governor in Council stated the grounds on which he was inclined to think differently of the Court's intentions, viz. first, that their letter contained no direction for taking away the powers of Magistrate from the zillah Judge, but only for the transfer of the superintendence of the police; secondly, that the nature and extent of the proposed transfer seemed defined by the remark in the eighty-eighth paragraph of the Court's dispatch; that a proposition to the effect of their order for the transfer was recommended by the Police Committee in 1806, who expressly founded their recommendation for transferring to him the superintendence of police in the security against abuse afforded by his not possessing magisterial powers; thirdly, that it was not necessary to the efficiency of the Collector's superintendence of police, that he should be vested with the powers of a Magistrate; and fourthly, that the suggestion to invest the Collector with specific magisterial powers, contained in the one hundred and second paragraph of the Court's dispatch, was inconsistent with an intention to transfer the whole powers of Magistrate from the Judge to the Collector. The Commission were directed to submit their opinion on the expediency of the further transfer which Colonel Munro conceived to have been in the contemplation of the Court of Directors. The Foujdarry Adawlut and the Revenue Board were also required to state their opinion on the same point; and the latter were further directed to report, whether they considered the Collector capable of undertaking the duties of Magistrate, as laid down in the Regulations, without increased assistance or preparation for his new office.

Under the thirteenth Resolution, the Commission were required to report their opinion on the expediency of vesting in Collectors the powers of punishment proposed in the one hundred and second paragraph of the Court's letter.

Under the fourteenth Resolution, the Commission were required to state their opinion on the expediency of associating the Collector with the zillah Judge at quarterly sessions, as suggested in the same paragraph.

Under the eighteenth Resolution, the Commission were required to prepare a draft of a Regulation for requiring boundary disputes to be settled by the Collector, on the verdict of a punchayet.

29. The members of the Commission were cautioned to conduct the investigations ordered through the local officers, to conform to the established system of internal administration, to avoid every measure which might have a tendency to unsettle the minds of the people with regard to that system, and destroy their confidence in its permanency, and to strengthen and uphold the legitimate influence of all the constituted authorities of the Government.

30. These Resolutions were sent to the Commission;* and, in reply, they stated,† that the Regulations should be prepared and issued as soon as possible, and

* Letter from Mr. Secretary Hill, 1st March 1815. † Letter to the Chief Secretary, 28th March 1815.

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and not be deferred until an accurate knowledge of the information called for had been acquired; that by a contrary course of proceeding no useful end could be gained, and the business of the Commission would be protracted far beyond the period limited by the Court of Directors.

31. On the three heads of information required under the first Resolution of Government, with regard to the first point, "whether the office of Potail universally exists and is vested in one person," the Commission stated, that the office of Potail, or something similar to it, was universal; that villages are, in general, under a single Potail; that where they are under two or more Potails, one only is the actual manager of the village; that in agraharums and other villages, divided into shares and held as hereditary property, by communities of Brahmins or Ryots, where the shares are interchangable among all the members, and where the rights of all are equal, there is always some one individual to whom the rest submit, either on account of his abilities or some other cause, who commands the village servants and directs its affairs; that under the permanent system, where the internal economy of the village has in some instances been deranged by the removal of the ancient Potail, either the actual renter, or some person appointed by him, acts in his room; that in the great zemindarries the village is either managed by a Potail, or by some individual nominated to act as such by the Zemindar; and, in fine, that in every village there is some one person, however he may be denominated, who is its efficient head and manager.

32. With regard to the second point, "whether the Potail be willing to undertake the duty proposed to be assigned to him," the Commissioners remarked, that there is nothing in the duty now proposed different from that which has been discharged by the Potails at all times, under every native Government, and even under our own until the introduction of the judicial system; that he has been always accustomed, either himself or by means of a punchayet, to settle the petty suits of his village; that the observance of this custom has always been obligatory, not optional, and that to leave the heads of villages the option of performing or not one of the most important duties of their office, would be productive of very great inconvenience. Among the Potails, as among all large bodies of men, a great number will wish to be relieved from as much labour and responsibility as possible, and decline the exercise of every duty whenever it is left optional with themselves: the object of the Court of Directors, of having petty village disputes settled on the spot, would thus be frustrated, by the Potails, to whom alone this duty can be with propriety entrusted, refusing to act.

33. With regard to the third point, namely, "whether the mauniums, fees, "and shares of produce, which are supposed to constitute the reward of his "labours, are in all cases still continued?" The Commission stated, that they knew that whatever the Potail allowances were, they are in general the same now: that upon them he discharged the duty in question under the native Governments, and even under our own, until lately, and may therefore do so again; and that under the permanent settlement or decennial lease, in those cases where the Potail has declined to rent his village, and receives in consequence only a part of his service lands and fees, the new proprietor or renter who succeeds to his office succeeds also to all the obligations of it, and is bound by the immemorial usage of the country to discharge them: that cases of a parallel nature formerly occurred every day in the unsettled districts, whenever the Potail, from sickness, incapacity, minority, or other cause, was incapable of acting, and had no near relation qualified to act for him, a stranger was appointed to officiate, who received a share only of the Potail's allowances and performed all his duties; and that, however desirable it would be to obtain correct statements of the service lands and fees, &c. of the Potails, much time must elapse before they can be procured with any tolerable degree of accuracy.

34. On the information required under the second Resolution of Government, the Commission stated, that they had no doubt that individuals of sufficient rank and respectability to preside over the proposed district courts might be found, but that their being willing to act, or not, must depend, in a considerable degree, on the nature of the duties required of them, and the amount of the fees or salary to be granted for the performance of them: that many of the present Commissioners are in the class of men required for this office, and might be transferred to their new duties in the enactment of the Regulation, and would be more efficient from previous experience.

35. On

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35. On the four heads of information required under the eighth Resolution of Government, the Commission remarked, with respect to the two first, namely, "whether the Talliars are sufficiently numerous," and "whether they are "sufficiently remunerated?" that much labour had already been bestowed by two Police Committees in this matter, and that, by the last, all the information attainable in the present state of things had been drawn together: that it was now ten years since the first Committee began its inquiries, and above three years since the letter of the Chief Secretary, calling for the statements upon which the last Committee founded their report, was circulated, and that the information was still defective: that any investigation of the Commission they could not suppose would render it more perfect, or extract from the local authorities any thing which they had not already furnished to the last Committee; for however desirous these authorities might be to throw additional light upon the subject, it was in most of the settled countries impossible for them to do so, both because the requisite investigations were not undertaken before the permanent settlement, and because, since that event, they have not had sufficient control over the Curnums to make them with any effect; but that this was of the less consequence, because the duties of the village police had, in general, always been, and in fact still were executed by the present establishment of Talliars, and may therefore still continue to be executed by them.

36. With regard to the other two points which the Commission were directed to ascertain, previous to drafting the necessary Regulations, in respect to the fitness of the Potails, they stated their conviction, that they are fitter than any other set of men to be entrusted with the village police: that the influence which they derive from their situation as head of the village, qualifies them, in a higher degree than any other persons, for the charge of the police; and that, as they have always been entrusted with it, they join to influence the benefit of experience: that no other men could be substituted for them without incurring a heavy expense, nor could they be found equally useful: that under our own judicial system, the village police has in general been virtually managed by them, though nominally by the Darogah establishment: that there are, no doubt, many Potails very little qualified for the charge of the police, but that this is a defect unavoidable in every institution similarly extensive: that where incapacity is notorious, it may be remedied by the local authorities appointing a substitute; and that no opinion of the Commission, as to the competency of the Potails, can be of any use, as the question has been decided by the Court of Directors, who have pronounced the Potails to be the fittest instruments for the management of the village police, and ordered them to be appointed to it.

37. With respect to the last point to be ascertained, namely, whether the Potails are willing to undertake the charge of the Police, the Commission observed, this had been answered, in giving their sentiments on the employment of the Potails as village Commissioners: that the charge of the police being a condition inseparably attached to their office, it could answer no good purpose to give them room to suppose that it might be declined under any circumstances, for this would lead them to believe that some great change was intended: that the discharge of their police duty was to be optional, or that if they agreed to hold it, they were to receive some additional allowance.

38. The Commission stated, that they would furnish the statement required under the ninth Resolution of Government, namely, a statement of the whole police charges of every description resumed under the revenue arrangements of Fort St. George; but that, in order to enable them to prepare it, it would be necessary to direct the local authorities to furnish whatever documents they might call for, and to assemble the Potails, Curnums, or other native village or district servants, whenever they might require it, for the sake of receiving additional information on the spot.

39. The Commission also stated, that they would, as directed in the tenth and eleventh Resolutions of Government, provide for the employment of Zemindars in the police, and prepare a draft of a Regulation for transferring the superintendence and control of the police to the Collector: and as to the expediency of the further transfer, which Colonel Munro conceived to have been

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in the contemplation of the Court of Directors, the Commission thought it expedient that the office of Magistrate should be entirely transferred to the Collector, for the following reasons; that there seems no other way of preventing the collision of the European local authorities; that while this collision subsists, the respectability of both offices will sink in the estimation of the natives,—and neither be efficient; that the village officers will still be equally at the call of either, and distracted in their duties; that the system of the village municipalities, in which every member has revenue duties to perform, is calculated to be directed by the single authority of the Collector; that if the full transfer is not made, the complaints for petty offences must still be carried to the zillah court, to the great vexation of the inhabitants, by their being compelled to go so far from their homes; that if the full transfer were made, these matters would be cognizable by the Collector as Magistrate, and might be settled on the spot, either by himself or his Aumildars; that the offices of Magistrate and Judge being united in one person, obliges the Judge to bestow much of his time on his magisterial duties; that by limiting the jurisdiction of the zillah Judge to civil suits, justice might be so much expedited as to enable the courts to answer the demand of the country, to which they are at present unequal; and that a considerable saving might be made in the magisterial establishment, by the complete transfer which, the Commission observed, was enjoined by the Court of Directors, in paragraphs 84, 85, 88, 89, 90, 95, 102, 106, 107, and 109 of their Judicial dispatch of the 29th April 1814. From the tenor of those several paragraphs, the Commission adduced reasons to prove that it was the Court's intention, not only that the Collector should be Magistrate, but with augmented authority.

40. The Commission being required to report their opinion, under the thirteenth Resolution of Government, with regard to the powers of punishment proposed to be vested in Collectors by the hundred and second paragraph of the Court's letter, stated that these powers ought to be given, whether the Collector is constituted Magistrate or Superintendent of Police; for, though as head of the police, he can rarely have occasion to exercise them to their full extent, it may yet sometimes be necessary.

41. The Commission being required to report their opinion, under the fourteenth article of the Resolutions of Government, on the expediency of associating the Collector with the zillah Judge at quarterly sessions, as suggested by the Court of Directors, observed that the measure would be attended with too many inconveniences to render it fit for adoption. These inconveniences they enumerated, and expressed their doubt as to the expediency of the establishment of the zillah quarterly sessions at all, as since the enactment of Regulation I. of 1811, for providing quarterly sessions in the zillahs of Masulipatam, Chittore, Trichinopoly, and North Malabar, the Circuits had always been completed by the Circuit Judges within the time limited.

42. The Commission stated, that they would submit a draft of a Regulation for the settlement of boundary disputes, as required under the eighteenth Resolution of Government.

43. The Commission observed, that it was essential to the success of their investigations, that they should have a free intercourse with the inhabitants: that both in their communications with them, and on all other occasions, they need hardly observe they would endeavour to strengthen and uphold the legitimate influence of all the constituted authorities of the Government; but they respectfully suggested, that the most efficacious way of preventing the minds of the people from being unsettled with regard to the permanency of the present system, would be to publish and circulate, with as little delay as possible, all the Regulations required under the proposed changes, which most immediately affected any body of the people.

44. The Commission were informed in reply,* that as the Regulations to be prepared by them must undergo the revision of the Sudder Adawlut and of the Government, and as it was prescribed by the Supreme Government that all Regulations were to be sanctioned by their authority previous to enactment, it was the wish of the Governor in Council that the Regulations should be drawn up

* Letter of Mr. Secretary Hill, 30th May 1815.

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up and submitted through the regular channel, with as little delay as possible: that the Governor in Council continued to be of opinion, that it would be advisable that a report on the points of information required in articles No. 1 and No. 8 in the Resolutions of Government of the 1st March, should precede the promulgation of the Regulations: that no time should be lost in transferring to the Collector the exercise of the whole of the duties of the police, in the sense they were understood by Government; and that to what degree magisterial powers might ultimately be transferred from the Judge to the Collector, or be conferred upon him in common with the Judge, would be matter for future decision.

45. The Commission, in consequence, circulated forms of four statements to the several Collectors of zillahs,* to be filled up, embracing the several points of information required by Government, which they were directed to transmit to the Commissioners' office, on or before the 1st October ensuing; and having prepared drafts of seven Regulations, conformably to the order of Government of the 1st March, they sent them to the Sudder and Foujdaree Adawlut for revision.†

46. Copies of those Regulations were subsequently laid before the Right Honourable the Governor in Council,‡ with a summary of each, accompanied with such remarks as appeared necessary to explain the grounds on which the Commission had sometimes ventured to deviate from the instructions of the Honourable Court of Directors. The following is the substance of the Commissioners' remarks on this occasion.

47. By Regulation I. § the Commission fixed the original jurisdiction of the village Moonsiff at ten rupees, because it appears to have been the intention of the Court that the sum should be small; and they exempted him from the duty of referee in determining all causes referred to him by the zillah Judge, as proposed by the Court, because his duties as village Moonsiff, as head of the police, and as revenue officer, are sufficient to occupy his time, and because the district Moonsiff being empowered to officiate as referee makes it the less necessary that he should act in that capacity. The Court recommended that the village Moonsiff, as arbitrator, should decide without limitation as to amount; but the Commission limited his jurisdiction to cases not exceeding one hundred rupees, because that would be found sufficiently extensive to answer every useful purpose, more particularly as in the same village the parties might have recourse to a punchayet, whose jurisdiction is unlimited. The Court proposed that the execution of the village Moonsiff's decrees, on an appeal to the zillah Judge, should be stayed only under special circumstances; but the Commission admitted no appeal from the village Moonsiff deciding of his own authority, beyond the district Moonsiff, because one appeal is enough in suits limited to ten rupees.

48. In Regulation II. the Commission adhered to the custom of the country in the mode of forming the punchayet, and limited the number of members to any odd number, from five to eleven, according to the population of the village, the importance of the matter at issue, and other circumstances. By the ancient usage of India, every individual, with the exception of a few belonging to the religious orders, is compellable to sit on a punchayet, for which reason the Regulation authorizes the village Moonsiff to fine any person who does not attend when summoned, to the extent of five rupees. The Regulation authorizes the village Moonsiff to fine any person who does not attend when summoned, to the extent of the jurisdiction of the punchayet, when it tries suits on the application of one of the parties, to one hundred rupees, the Court not having specified any amount, but it makes the decision final only in cases not exceeding ten rupees, because the Court recommended that the amount should be small, and because, in so narrow a sphere as a village, where prejudice may operate in the punchayet, and where only one party seeks its decision, there should be an appeal to the district punchayet. In cases where both parties voluntarily engage to abide by the award of the punchayet, the Regulation, conformably

* Circular to Collectors, 8 June 1815. † Letter to the Register to the Sudder and Foujdarry Adawlut, 1 July 1815. ‡ Letter to the Chief Secretary, 15 July 1815. § Original Drafts.

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conformably to the Court's orders, makes it final, without limitation as to amount, except where corruption may be proved before the zillah Judge.

49. Regulation III. was framed chiefly from the Bengal Regulation XXIII. 1814, and the Madras Regulations for native Commissioners, which were made to correspond with the village Moonsiff Regulation, and with the views of the Court of Directors in extending the jurisdiction of the District Moonsiffs to all suits for real and personal property not exceeding two hundred rupees. The Court proposed, that the decision of the district Moonsiff should be final, to the extent of five pagodas; but the Commission carried it only to ten rupees, conceiving it advisable that the latitude of appeal should be greater on the first institution of the proposed system. The Commission remarked, that the jurisdiction of the district Moonsiffs should hereafter be extended to three thousand rupees, and that the Moonsiffs should be selected from the most deserving of the zillah court servants, and that their receipts should not be less than from thirty to fifty pagodas monthly.

50. Regulation IV. was founded exactly on the same principle, of employing the better informed of the inhabitants, generally, in the administration of justice, as Regulation II., and it differed from it only in so far as was necessary for the purpose of rendering it applicable to the district instead of the village. The fine for refusing to act on district punchayets is extended to ten rupees. In cases where it tries suits at the request of only one of the parties, its jurisdiction is limited to two hundred rupees, in compliance with the Court's orders; but the Commission recommended that it be extended to three hundred rupees. The decisions of the district punchayet are made final in all appeals from the village punchayet, because as the amount cannot exceed one hundred rupees, two bodies of men are not likely to be materially wrong from ignorance or corruption. In original suits, where the trial is made on the demand of only one of the parties, the decision of the district punchayet is made final to the extent of one hundred rupees, though that of the village punchayet is final only to ten, the district punchayet being composed of men less likely to be influenced by local or party motives than those of which the village punchayet is composed.

51. As the establishment of district punchayets, and the extension of the jurisdiction of the district Moonsiffs, will occasion an increase of appeals to the zillah courts, it was thought proper to extend, by Regulation V. the Sudder Aumeen's referee jurisdiction from one to three hundred rupees, leaving it still two hundred rupees less than that of the zillah Register. The decisions of the Sudder Aumeens are made final in appeals, because, from their respectable office and high salaries, they are not likely to give a corrupt decision, nor from their experience and knowledge to give an erroneous one. The Hindoo law officers of the provincial courts are also made Sudder Aumeens, because they are well qualified, well paid, and have more leisure than even those of the zillah courts.

52. Regulation VI. is restricted to litigations respecting village boundaries, which from the violent party spirit which a contest for them excites, and the falsehood and arts by which the opposite claims are maintained, can only be adjusted by a punchayet on the spot. The Collector, in these cases, assembles the punchayet through the village or district Moonsiff, and has no power beyond that of confirming or annulling its decision.

53. The Commission having explained the principles on which each of the Regulations, from No. I. to VI. inclusive, have been framed, proceeded to offer a few general remarks applicable to the whole.

54. No replies or rejoinders are admitted in the village and district courts, or supplemental pleadings, because the less the proceedings of the native courts are clogged with forms, the better will they be understood, and the better suited to the original institutions of the country. No Vakeels are to be acknowledged in any Moonsiff's court, or before any punchayet, unless he be a relative, servant, or dependent of the party he represents. The Sudder Aumeens being attached to the zillah and provincial courts, the pleadings before them will be carried to the same extent as in those courts, by the authorized Vakeels of the zillah courts, under the existing Regulations. By the practice of the civil and

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criminal courts, oaths are so generally required on trivial occasions, that they are no longer held in any estimation, for which reason the usage of the country has been followed in giving a latitude to the village Moonsiff and village and district punchayets, to put such witnesses only on their oaths as they may think are not giving their evidence correctly; and to obviate the delays and expense resulting from the summoning too many witnesses, a discretional power is left to them to examine only four witnesses on each side, in any suit where they may not deem any further evidence necessary. The village Moonsiff, in order to support his authority, is authorized to impose a fine of half a rupee, and the district Moonsiff a fine of one rupee. When a witness refuses to give his evidence, the village Moonsiff is empowered to fine as far as five rupees. The district Moonsiff may, in such cases, fine to what extent he may deem proper, subject to the approbation of the zillah Judge; and with the view of maintaining the authority of the Moonsiff, and of relieving the zillah Judge from the superintendence of trifling matters, to which he cannot attend without injury to more important duties, the Moonsiffs are empowered to levy the fines which they impose. The Moonsiffs are empowered to carry into execution their own decrees, and the decrees of the village and district punchayets, to a limited amount; and being amenable to the zillah courts for any abuse of authority, it will prove a greater check upon them than upon the Nazirs of the courts, their deputies or Peons, whose duty it is to enforce all orders and decrees of the courts, because persons injured will have less hesitation in carrying their complaints against Moonsiffs than against its own officers to the zillah court. By giving the district Moonsiff a per-centage on the amount of sales by auction, in satisfaction of decrees, parties cast will be induced to fulfil the condition of the decree without his interference, to save the per-centage; and when his interference is necessary, it will be his interest that the effects sold should yield the best price. As Section 23, Regulation XXIII. 1802, provides for Commissioners of districts being appointed when necessary, the district Moonsiffs have been exempted from that office, because their absence from their stations would occasion much delay to parties, members of punchayets, and witnesses. The village Moonsiffs and members of village and district punchayets are exempted from being summoned before any court, for any act done in their official capacity, unless corruption be proved, when they are liable to prosecution, because were they liable to be called to explain or vindicate the ground of their decisions, on objections being made to them, all respect for their proceedings would be destroyed, and the police and revenue duties of the village would be impeded by their absence, and it would become difficult to assemble punchayets, from the fear of long and harassing journies to the zillah courts. The Regulations follow the principle of never admitting more than two trials in any suit; but should it be deemed advisable to admit of special appeals, they might be confined to matters of general interest, otherwise parties, when they see them granted in one instance, might be led to expect them in another, and a ruinous litigation would be promoted.

55. The Commission observed, that in framing the Regulations, they had endeavoured to adapt them to the manners and institutions of the natives, and that the experience of a few years will determine whether they prefer courts founded on their own institutions or on those of Europe, and that the agency of Moonsiffs and punchayets ought not to be regarded only in the narrow view of their utility in settling causes, but of their influence in improving the character of the people, and attaching them to the British Government.

56. In remarking upon the police Regulation, the Commission observed, that Regulation VII. is founded chiefly on the one which was drawn up by the Police Committee in 1814, by making such additions and alterations as were necessary to adapt it to the change of system introduced. By placing the police under the control of the Collector, all subordinate gradations of police officers are included in two classes, the village and district. The Zemindar belongs to the district establishment, and where there is no Tehsildar, supplies his place, with equal or diminished authority, as may be most expedient. No power is entrusted to the Collector which is not absolutely necessary to enable him to carry on the duties of police; and where heads of villages and Tehsildars are authorized to punish for petty offences, it is solely with the view of

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preventing the offender from suffering a greater punishment, by being sent many miles to the Magistrate, and kept several days from his home. The Regulation requires that all village watchers, who are not now hereditary, shall be made so, and that a part of their inheritance shall be in land, in order to give them a greater interest in the village; and that the police and revenue Peons shall no longer form a separate establishment, but be incorporated and employed in both duties, without distinction. This union of both departments will not only effect some saving, but render them more efficient, by having no motive for opposition and counteraction, and by doing away the petty village vexations and espionage, which prevailed while the charge of the village police remained under Thannadar's Peons. The Commission observed, that after the union of the revenue and police establishments, it will, in some districts adjoining the territories of the Mahrattas and the Nizam, still be necessary to keep up a small body of Peons, not to prevent theft and robbery, but to guard them from being plundered; and that, as they think that the inhabitants ought to be armed, they have made no provision for supplying the police Peons with arms, which they must bring and take care of themselves, by which Government will be saved from an useless expense: that the police Regulation does not fix the rates of hire, except with regard to coolies, palanqueen bearers, draught and carriage cattle for the use of travellers, and detachments of troops, and that the union of the revenue and police establishments will further simplify the duty of supplying troops on the march, and render it less liable to delay and mistakes.

57. These Regulations having been referred, as already observed, to the Sudder and Foujdarry Adawlut, a copy of their proceedings thereon, with their revised drafts, were transmitted by Government to the Commission for their consideration and report.*

58. The Commission stated in reply,† that they had carefully considered the Sudder Adawlut's proceedings and re-drafts, and that it would be sufficient that their explanations extended to such matters only as are of real importance. In order to furnish a clear view of the material points in which their revised drafts, which they then submitted to Government, differed from their original drafts, as well as from those of the Sudder Adawlut, the Commission went through them in succession, noticing each deviation, and assigning the reasons which induced them to adopt or to reject the supposed amendments.

59. The Commission stated, that the most material points of difference between their revised and original draft of the village Moonsiff Regulation lay in depriving him of jurisdiction in matters of real property, and making his decision final in cases of personal property not exceeding ten rupees: that the arguments of the Sudder Adawlut against village Moonsiffs' having jurisdiction over real property are, that cases of inheritance must be referred to the opinion of the law officer of the zillah court: that the village Moonsiffs were not competent to make those references in a proper form: that the time of the law officer would be unprofitably occupied in unravelling many ill stated cases. The Commission yielded to these arguments, because, though the Hindoo laws of inheritance are so simple as to be as well understood by the heads of villages as by the pundits of the courts, yet as the Mahomedan laws of inheritance and succession are intricate, some cases of Mahomedan landed property might require reference to the Court. The Commission observed, that though the Court of Directors do not propose that the decisions of the village Moonsiff shall be final when acting on his own authority, yet as they recommend that his reference jurisdiction shall, like that of the district Moonsiff, be final to the extent of eighty rupees, and as this reference jurisdiction has not been given to him, the authority proposed to be vested in him, by making his decisions final in suits for personal property not exceeding ten rupees, will not be greater than what was recommended by the Court.

60. The Sudder Adawlut objected to the retrospective jurisdiction of twelve years given to the village Moonsiff, and suggested that the period should be limited to two years, "on the ground that the effects of a like pro-"vision, by the Regulation of 1802, was to burthen the courts with twelve "years'

* Letter from Mr. Secretary Hill, 1st March 1816.
† Letter to the Chief Secretary, 20th April 1816.

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"years' arrears of business, which had accumulated under the defective institutions of the native Government." The Commission adhered to their former opinion of the necessity of twelve years' retrospective jurisdiction, because most of the petty suits which will come before the village Moonsiffs had originated, and had been accumulating since the establishment of the zillah Courts, from the difficulty and expense of trial being greater than the matter was worth, and because it was but just that our judicial system should make provisions for the discharge of arrears which it had been the means of accumulating.

61. The Commission adhered to their original draft, in authorizing the village Moonsiffs to send verbal summonses to parties and witnesses, instead of the written summonses proposed by the Sudder Adawlut. They observed, that their reasons were fully stated in Mr. Stratton's minute on the proceedings of the Court, in which the inconvenience that would attend the use of written summonses in petty village suits was shewn: that were they even satisfied that written summonses would facilitate the decision of village suits, they would not recommend their adoption, as they would gradually teach the inhabitants to question every verbal order of the head of the village, which they formerly always obeyed, and in general still obey without hesitation, and which ready obedience was indispensable to the good management of the village.

62. The Commission conformed to their original draft, and differed from the redraft of the Sudder Adawlut, in letting a suit be decided by the oath of one party when the opposite party agreed to abide by such oath. The Sudder Adawlut observed, that "the determining of a question by the oath of one "party would be introducing a new principle into the code." To introduce a new principle into the code was precisely what the Commission meant to do, because the introduction of principles which were followed by the natives in the adjustment of their differences, and which were respected by them, would improve the code. The Sudder Adawlut thought it worthy "of consideration, "whether the passing of decisions on the oath of a party, unsupported by witnesses, will not tend to encourage perjury;" but it did not appear how perjury was to be promoted by only one person swearing, more than by two or more swearing contrary to each other. The man who agreed to rest the truth of his claim on the oath of another must have some confidence in his veracity; if he had not, he would follow the usual course of letting the matter be decided by the examination of witnesses.

63. The Commission conformed to the redraft of the Sudder Adawlut, in having the number of witnesses unlimited; not from thinking that, in petty suits within ten rupees, four witnesses on each side were not sufficient for every purpose of evidence, but because, having done away appeals from the village Moonsiff's decisions, it was no longer necessary for him to take written evidence, and oral evidence requiring little time the restriction on the number of witnesses might be given up without inconvenience.

64. The Commission adhered to their original draft, in leaving to the village Moonsiff the discretionary power of causing an oath to be administered to a witness, where he thought he was not giving his evidence correctly; but in order to put the witness on his guard against perjury, which the Sudder Adawlut apprehended he might be led into, the Commission provided in the revised Regulation, that the village Moonsiff should, previously to the examination of a witness, warn him of his authority to put him on his oath if necessary.

65. The Sudder Adawlut remarked, on the village Moonsiff levying the fines which they may impose, that the power of levying fines, by all former enactments in the Madras Judicial Code, can only be exercised through the intervention of the zillah Judge. The Commission, in a former report had fully stated the reasons for giving that power to the village Moonsiff, and saw no cause to change their opinion of its expediency; but they lessened the time of imprisonment, in commutation of fines, from twenty-four to twelve hours.

66. The revised village punchayet Regulation differed from the original draft in the following points. In order to lessen the motives to corruption, the compulsory power of the village Moonsiffs to cause any suit, not exceeding one hundred rupees, to be tried by a punchayet on the application of only one party,

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party, was taken away from him, and he was permitted to order a cause to be tried by a punchayet only when both parties agreed to abide by its decision, consequently there can now be no appeals.

67. By the original Regulation, the zillah Judge could annul the decision of the punchayet, when corruption or gross partiality was proved to his satisfaction. By the revised draft, in cases of gross partiality, proved to his satisfaction, he was to refer his proceedings and opinion to the provincial court of appeal, who, if they concurred in his judgment, were authorized to annul the decision of the punchayet. But in cases of corruption only, the Judge could not annul the decision; but the corrupt party was liable to prosecution, as there might be a corruption of one or two members, and the decision of the majority still be right. If corruption produced a partial decision, the charge of partiality being proved would overturn the decision: if it had not produced a wrong decision, the corruption was liable to punishment on a prosecution. By the revised draft, also, when a decision was annulled for gross partiality, if the same decision were given in the same case by a second punchayet it was final, as decisions ought always to be final somewhere; for the second punchayet, with the advantages of local inquiry, caste, and language, had at least as good means of forming a correct judgment on the merits of the case as a distant provincial court.

68. The Sudder Adawlut made the greater punchayet appointed by the Moonsiff applicable to limited suits only, and the smaller punchayet of five members, chosen by the parties and Moonsiffs, applicable only to unlimited suits. The Commission rejected this change, and adhered to their former Regulation, because the members of the smaller punchayet, chosen by the parties, were apt to become parties themselves, and because the leaving all the greater suits to this punchayet would only tend to prevent their adjustment, and to force the parties, however unwilling, to the zillah courts.

69. The Commission adhered to their original draft, in leaving to the punchayet the power of causing an oath to be administered to a witness at discretion; but the punchayet were to inform every witness, previous to his examination, that they had such authority.

70. The Commissioners' revised district Moonsiff Regulation differed from their former one: First, in not limiting the number of witnesses, because the restriction of the examination of witnesses to four on each side had been done away in the village Moonsiff Regulation; secondly, in extending the final jurisdiction of the Moonsiff to twenty rupees, the village Moonsiff's final jurisdiction having been extended to ten rupees, and twenty rupees being nearer the limitation of five pagodas recommended by the Court of Directors; this extension seemed also to be required for the purpose of expediting the process before the district Moonsiff, by enabling him to dispense with written depositions in all suits under twenty rupees, in consequence of the limitation of the number of witnesses being given up; thirdly, in making the district Moonsiff examine witnesses on oath, because as appeals lie from his decision to the zillah court, where the witnesses must be examined on oath, it is better that he should follow the same rule; fourthly, in the mode of summoning defendants and witnesses employed in the preparation of salt and the Company's cloth investment, through the public officers under whom they were employed. This form was inadvertently adopted from the Bengal Code; but as no such form had been admitted into the judicial code of this Presidency, and as there seemed no sufficient ground for making that distinction between those persons and the rest of the natives, the Commission rejected it in the revised draft; fifthly, in the pay of the district Moonsiff, which in the first draft was made conditional, was made positive in the revised one, because such a provision seemed to be necessary to encourage men of respectability to hold the office, and be more consistent with the instructions of the Court of Directors.

71. The Commission adopted the Sudder Adawlut's definition of landed property, which is rather an amplification than an alteration of the one hitherto in use. The description of landed property contained in the Commissioners' Regulation was taken from the code, and yet the Sudder Adawlut observed, "the Section does not describe correctly the nature of the property which is "intended

"intended to be made subject to the cognizance of the village Moonsiff." The Commission did not think it necessary to look for a new definition, because that of the code had been acted upon, from its first introduction to the present day, without any apparent inconvenience.

72. The remark already made on the differences between the original and revised drafts of the village punchayet Regulation are equally applicable to those of the district punchayet, it having been deemed expedient to assimilate both Regulations.

73. The Commission restored the Sudder Aumeen Regulation to the original state of their first draft. The Sudder Adawlut made the number of Sudder Aumeens unlimited: the Commission confined the office to the Hindoo law officers of the provincial courts, and the Hindoo and Mahomedan law officers of the zillah courts, with the view of giving respectability to the office, as well as of saving expense. The Sudder Adawlut referred the Sudder Aumeen to upwards of twenty sections of the district Moonsiff Regulations: the Commission referred him to the whole code, because it is conformable to the practice of the Regulations in regard to native Commissioners, because the Sudder Aumeen being an officer of the court, ought to follow the rules and forms of the zillah court, and because he is supposed from his situation to be acquainted with the whole code.

74. The revised boundary dispute Regulation differed from the original draft in not limiting Collectors' jurisdiction to disputes between villages respecting their boundaries, but extending it to disputes regarding boundaries in the same village. The Commission made the extension, because the letter of the Court of Directors, on a further consideration of its object, did not appear to limit the jurisdiction to village boundaries, and the Regulation to which it referred speaks of boundaries in general; because all boundary disputes can but be settled by local inquiry under the Collector, because having taken away the jurisdiction of the village punchayet in suits for land, it was the more necessary to employ them in the settlement of boundary disputes, which are merely matters of fact, and of which their residence on the spot makes them competent judges, and because much facility will be given to the adjustment of those suits.

75. In the revised, the Commission differed from the original Regulation in adopting part of the forms of process proposed by the Sudder Adawlut, in allowing the Collector to annul the decision of a punchayet on proof of partiality, but not of corruption, for the same reasons for which the power of the provincial court, in this respect, had been limited, and in making the decision of a second punchayet, confirming that of a former one, final.

76. In the revised police transfer Regulation, the Commission adhered, in every material point, to their first draft, and restored the sections rejected by the Sudder Adawlut. The Sudder court seemed to think that the section which authorizes the Collector, where riotous assemblages are formed in consequence of disputes respecting the right of ploughing any particular fields, to determine who shall plough them for the present, in order that cultivation may not be impeded by the land being kept uncultivated, while the trial which the parties may seek is depending, "authorized the Collector to transfer to any "claimant lands which might have been cultivated for ages by one family in "succession." They observed, that this Section "cannot guard any right, can- "not serve the purpose of justice, but may give a temporary success to in- "justice." The Commission remarked, the Collector, in the first words of the section, is authorised to prevent the forcible occupation or seizure of land or crops, and it is not therefore easy to see how he could, without a breach of the Regulation, dispossess the ancient family of ages, or even the occupant of a single season. The provision was meant for disputes about the occupancy of sirkar land lying waste, or uncultivated and unoccupied, and open to the first comer. The Commission, therefore, enlarged and restored the section, because it was required, in order to follow up the orders of the Court of Directors respecting the forcible seizure of lands and crops.

77. The Commission adhered to their original Regulation, and differed from the redraft of the Sudder Adawlut, in dispensing with the use of stamped paper

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paper in complaints for petty offences to the Collectors and police officers, because the police being founded on the ancient usages of the country, there should be no unnecessary expense or form to impede the communication of the Superintendents of police with the inhabitants: in allowing no order to be issued to any police officer, except by or through the Superintendent, both with the view of preventing the collision of authority alluded to by the Court of Directors, and of giving more efficiency to the police: in authorizing the Superintendent of police to release persons brought before him charged with offences, when he saw no ground for detaining them, without recording any reason, because to record his reason, in all such cases, could only serve to waste his time unprofitably, and to accumulate useless records: in not requiring oaths of office from the Collector and his Assistant, for the reasons stated by Mr. Stratton in his minute, and because, if his oath, as Collector, was not deemed sufficient, it might be altered, so as to make it answer for both offices.

78. The Commission having stated all the material points in which their revised differed from their original Regulations, or from the redrafts of the Sudder Adawlut, and given such explanation as appeared necessary, proceeded to offer a few observations, in answer chiefly to the objections to the village Moonsiff Regulations brought forward by the Sudder Adawlut.

79. The first objection stated by them was, that the Commission, in their first Regulation, "provide the renter or Collector of the rents or revenue, and "not the Potail, shall be the Moonsiff." The Commission did not say that the renter, and not the Potail, shall be the Moonsiff, but that the Potail, wherever he exists as Potail, shall be the Moonsiff, and that the renter or Collector shall be the Moonsiff only where the Potail has been set aside, and when the renter or Collector does, in reality, act as Potail: that a Potail who has not the village servants under his control, and who does not collect the rents and direct the affairs of the village, is no longer Potail: that the person who succeeds to this office is the Potail: that the Honourable Court of Directors propose that the heads of villages, by whatever name designated, shall be invested with judicial powers; but that where the former heads of villages have been removed, they do not mean that these powers shall be withheld from their successors, merely because their successors may occasionally be men of different caste from, or of less respectability than their predecessor: that when a Potail has been removed, to make room either for a renter or a proprietor of the village, he sinks to the rank of the common Ryot: that to constitute him Moonsiff would throw the affairs of the village into complete disorder, and hinder both the distribution of justice and the realization of the revenue: that he would exert all the influence of his new office to impede cultivation, and to encourage the Ryots to withhold their rents, in the hope of injuring the rival by whom he had been supplanted, or of compelling him to give up the village: that the village servants, when wanted by one for police or judicial affairs, would be called away by the other for those of revenue, and a collision of authority, most detrimental to the country, would be established: that constituting the head of the villages, the village Moonsiff, whether he be the ancient head of a new renter, proprietor, or agent, will not introduce so many strangers to the office of village Moonsiff as may at first sight be imagined, and that the removal of the ancient heads would not probably amount to one in twenty.

80. The Sudder Adawlut remarked, that the renter who derives his profits from the labours of all the cultivating classes of the village cannot be uninterested. The Commission answered, that it may be said that the office of renter does not prevent the Moonsiff from doing justice between tenants: that there can be no great motive to corruption in a few suits of ten rupees: that if the Ryots doubt his impartiality, he will ask a punchayet, or apply to the district Moonsiff or a zillah court. "Still less," said the Sudder Adawlut, "can impar-"tiality be expected from the hireling employed to collect the dues of the "Zemindars: he will too frequently, it is to be feared, make his profits by "relaxations of his master's right to be purchased by the cultivators, and the "best customer will doubtless be most in favour with him." To this it was answered, as far as regards the injury to the Zemindar, he may safely be left to take care of his own rights, and that he would do by removing his hireling agents.

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agents. With respect to the injustice to the Ryots, they can have recourse to other tribunals, and the Moonsiff is liable on prosecution to fine and damages.

81. Another difficulty, in the opinion of the Sudder Adawlut, was, that the situation of renter, or Collector of the rents, is not permanent in one person; and in order to shew from how many causes it was liable to change, they observed, "that the very circumstance of a man's giving more attention to settling justly the differences of his neighbours than to his own concerns, might "be the cause of his being ousted from his farm, by virtue of which he exercised the judicial authority." This case, of a Moonsiff losing his office from an excessive love of justice, is certainly not provided for.

82. The Sudder Adawlut observed, that "the farmer may fail and be removed, "and frequent changes of Moonsiff take place." It was answered, that these changes will be few, in comparison with the numbers that will not be changed; and even when they occur, the successor will probably be some principal Ryot of the neighbouring village, quite equal to the task of deciding two or three petty suits in a year. The Sudder Adawlut further remarked, "that the situation of Moonsiff is still more liable to change, when held by the agent of the "renter, than when held by the renter himself, because caprice in the renter "may furnish the village with a new Judge every month." To this it was said, that the common sense of the renter, and his regard for his own interest, will deter him from committing the management of his farm to a new agent every month; but even supposing this extreme case should actually occur, the monthly Moonsiff would have time enough to settle a petty suit, which would seldom require more than a few days, or a few hours.

83. The next point on which the Sudder Adawlut adverted, was the exemption from all superintendence and control which the village Judge is to enjoy, and his retaining his authority so long as he is the renter or Collector of the rents, "although he may, in a hundred instances, be proved grossly "venal." The Commission answered, that the village Moonsiffs are amenable to the zillah court for all acts of corruption and oppression, and are not exempted from wholesome control, but from such control or interference as would deter them from doing their duty, and render their office inefficient. The zillah Judges have neither means nor time to inquire into the negligence, or to ascertain the capacity of from one to a thousand village Moonsiffs. The capacity which is equal to the management of a village, will most likely be found adequate to the settlement of two or three, or even a dozen ten rupee suits in the year. If double the number of suits which in a year come before the native Commissioners be brought before the village Moonsiff, it would scarcely, on an average, give two to each Moonsiff; and he can hardly be grossly venal in a hundred instances, when he is not likely to have the trial of a hundred suits during his whole life. The Moonsiff cannot be removed where he is a renter or proprietor of a village, nor ought he to be removed even where he is merely a Potail collecting the rents of Government. To allow such removal, would promote the feuds which are so violent among some families for the office of Potail, and would encourage perjury for its attainment. The time of the Judge would be uselessly wasted in hearing unfounded charges. He would not easily be able to guard against the frauds that would be adopted, and might sometimes remove a man not guilty, and more injustice and corruption would thus be produced, than that which it was meant to obviate.

84. The Sudder Adawlut observed, that to make the Potails discharge judicial functions will be regarded as an imposition of new duties, or as the renewal of obligations which none of the parties wish to have renewed. The Commission observed, that they had, in a former report, stated their opinion on the obligations of the Potail office, and that, with respect to the parties not wishing to have them renewed, it does not follow the natives had no desire for a privilege, because they had made no complaint of its deprivation: that Potails and village servants, though they sometimes complained against the officers of Government, never complained against what they considered as the acts of Government, lest it should be regarded as opposition to Government: that as the natives believed that, in consequence of the Judicial code, no suit, however trifling, could now be settled, except under the authority of the zillah courts,

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courts, it had become necessary to make Regulations to restore to the natives their ancient privileges of having their disputes settled by the head of the village or a punchayet, when they choose this mode; in furtherance of which object, the Potail, whether he be willing or not, should be required to discharge all the judicial, revenue, and police duties belonging to his office, as head of the village.

85. It was thought by the Sudder Adawlut, that by constituting the Potail or renter a referee and arbitrator merely, the evil consequences of the exemption from the punishment of dismissal would not be so formidable, "because "to a village referee or arbitrator, whose profligacy or incapacity had been "ascertained, the zillah Judge would not refer causes for decision." It was answered, that all that is here said about arbitration was already provided for under the existing Regulations, but it appeared to have been very rarely acted upon: that the general complaint of the Judges was, that the parties had no confidence in arbitrators, and that they had already more to do than they could attend to, without a correspondence to ascertain the profligacy or incapacity of so numerous a body as the Moonsiffs: that to make it necessary in petty suits within ten rupees, the extent of the Potails' jurisdiction, to repair, in the first instance, to the zillah Judge, would prevent such suits from being settled at all, as even the certainty of gaining the suit would not compensate for the trouble and loss of time incurred by going to the zillah court.

86. The Sudder Adawlut recommended, that "where there are two or more "joint renters or collectors of rent, each claiming the office, the nomination "shall be made by the zillah Judge instead of the Collector, because, as he "appoints the district Moonsiff, the same provision should be made applicable "to the village Moonsiff." It was answered, that the district Moonsiff is an officer purely judicial, acting entirely under the orders of the zillah Judge. The village Moonsiff is a revenue officer, who exercises judicial authority only in virtue of his revenue office. His revenue business is constant, his judicial only casual, and as the Collector has always had the appointment of village revenue officers, this authority ought to remain with him.

87. The Sudder Adawlut recommend, that a Moonsiff should not be appointed to every village, but to a circle of from ten to twenty miles, according to the population: the Commission replied, that this is already provided for by the code, and appears to have been only partially done. It is therefore to be inferred, that the Sudder Adawlut have found some difficulty attending the plan, and that it can hardly be necessary to attempt the introduction of a similar one on a more extensive scale, as it would not be the village Moonsiff Regulation proposed by the Court of Directors.

88. The Sudder Adawlut observed, "that they have not deemed themselves "at liberty to deviate, in any essential point, from the principles on which the "proposed Regulations appear to have been framed." It was answered, that they had made one essential deviation in the punchayet Regulation, where they confine the trial of unlimited suits to the punchayet of five members, which would increase the chances of corruption: that they had noticed several trifling innovations in the judicial code, but had made no objection to one of the most important, that by which the village Moonsiff was authorized to carry his own decrees into execution, and to attach property for that purpose, which would have an extensive and beneficial influence in facilitating the recovery of just debts: that the difficulties seen by the Sudder Adawlut originate in their viewing the Potail, not as what he is, a head Ryot engaged in agriculture, and deciding one or two petty suits in the year, but as a regular Judge, solely occupied in hearing causes from one end of the year to the other: that they speak of his sitting in open court, of the respectability of the judicial character, of preserving the purity of these inferior judicatories, of his conscience not being bound by an oath, of his being subject to no control, and of the ease with which he may convert his power into an engine of oppression. The Commission observed, in reply, that the evil or the good that any one village Moonsiff can do will be trifling: that oppression will seldom be in the power of any one of them, and is sufficiently open to punishment: that good will be within the reach of them all, and that however little may be done by them individually,

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the aggregate will be great: that the proposed Regulations cannot impede, but will assist the operation of the judicial system, and they therefore recommended that they be passed by the Right Honourable the Governor in Council.*

89. These Regulations were accordingly passed by Government with certain amendments.† The printing of the village Moonsiff and village punchayet Regulations being completed, the Commission suggested that a sufficient number should be circulated for the information of the Judges and Collectors, and that copies should be sent to the translators to Government, to be translated into the native languages as soon as possible.

90. A letter from the Honourable the Court of Directors, under date the 20th December 1815, having been in the interim received, a copy of that dispatch was sent to the Commissioners for their information, with orders to suspend the printing of the Regulations respecting the boundary disputes and the police, and to submit other Regulations in their room, conformably to the instructions of the Court of Directors.

91. The Court approved of the tenour of the instructions which were issued to Colonel Munro, on his appointment to the office of First Commissioner of internal administration for the Madras provinces, and confirmed the appointment of Mr. George Stratton as Second Member of the Commission, and Third Judge of the Sudder Adawlut.

92. The Court much approved of the latitude given to Colonel Munro, to extend his enquiries to the revenue as well as the judicial branch of the administration, and directed that the Judges and Collectors do facilitate the investigations of the Commissioners, not only by unreserved communications, but by directing all their subordinate officers, together with the Potails, &c. of villages, to furnish every detail of information which the Commissioners may think it proper to call for.

93. The Court proceeded to notice the result of the deliberations of Government, as exhibited in their Consultations of the 1st March 1815, on the Court's Judicial dispatch of the 29th April 1814, and observed, they had been gratified to find that, with the exception of one point respecting the transfer of Magisterial functions to the Collector, there was no material difference between Colonel Munro's understanding and the interpretation given by Government of their instructions. The Court, however, stated, they had no hesitation in declaring their intention to have been, that the transfer should take place in the sense and to the extent supposed by Colonel Munro, to include not merely the superintendence and controul of the police, but the whole duties of Magistrate, which they directed should be carried into effect, so as that the zillah Judges might be enabled to give their whole time to the administration of civil justice. The Court, however, at the same time observed, that they should not be averse to leave to the zillah Judges a concurrent power to act as magistrates, in conjunction with the Collectors, provided it could be effected without risk of collision between the two authorities.

94. The Court directed provisions to be incorporated in the Regulation to be framed by the Commission under the eighteenth Resolution of Government, authorizing the Collector, in the first instance, to hear and determine all disputes respecting the occupying, cultivating, and irrigating of land, which might arise between the renters and their Ryots.

95. The Court directed, that should the Government not feel prepared to adopt the principle to empower Collectors to hear and determine disputes between Zemindars and renters, and the Ryots, respecting revenue collections, to take the earliest opportunity of collecting the opinions of the Sudder Adawlut, the provincial and zillah courts, the Board of Revenue, the Collectors, and the Commission, on the measure. The Court, however, observed, that it was not their intention to give to Collectors a power of deciding upon complaints, which might be preferred either against themselves or the native officers of Revenue under them.

96. The

* Letter from Mr. Secretary Hill, 17th May 1816.

† Regulations IV. V. VI. VII. and VIII. of 1816.

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96. The Court observed, that they were fully persuaded that the Commissioners would be influenced alike by duty and attachment to their service, to strengthen and uphold the legitimate influence of all the constituted authorities of the Government, and that it would have been a much more preferable course to have passed and circulated the Regulations without delay, and to have left the matters of detail, specified in the first and eighth articles of the minutes of Consultation of the 1st March 1815, for subsequent inquiry and adjustment, as was proposed by the Commissioners, in their letter of the 28th March, and which course they desired might be adopted.

97. In consequence of Mr. Secretary Hill's letter of the 25th May, the Commissioners directed the printing of the police and village boundary Regulations to be suspended. The district Moonsiff, the district Punchayet, and the Sudder Aumeen Regulations being printed, they recommended that copies of these Regulations should be immediately circulated, for the information of the local authorities: that copies should be sent to the translators, with directions to translate them as soon as possible, and the Commission requested that a printed copy of each translate might be sent to them.

98. The Commission having learnt from the Inspector of the Government press, that considerable unavoidable delay would be incurred by the printing of the translations of the Regulations, and from respectable natives, that the Malabar and Gentoo types were in so bad a state as to render the printed Regulations almost illegible, stated, that the Regulations in manuscript would be more easily understood by the natives, and suggested that the translators should be directed to send them twenty-five authenticated manuscript copies of each Regulation, to circulate the more speedily to the local authorities.

99. In consequence of the orders of Government of the 25th May, to suspend the printing of the Regulations respecting the boundary disputes and the police, and to frame other Regulations in their room, conformably to the orders of the Court of Directors of the 20th December 1815; the Commission submitted to Government the drafts of three Regulations, namely, one for the office of Magistrate, one for the office of criminal Judge of the zillah, and one for the police.

100. In framing these Regulations, the Commission adhered as closely to the instructions of the Court of Directors as was practicable, without involving inconveniences which the Honourable Court appeared desirous to prevent. The Court recommend the employment of the zillah Judge in criminal matters, to enable him to hear and determine all cases of public offence, not of a capital nature, and now cognizable by the courts of circuit only, which might be brought before them by the Collector in his magisterial capacity, with a limitation, in regard to corporeal punishment, to fifty rattans; in regard to fines, to two hundred Arcot rupees; and to imprisonment, to one year. Powers so extensive were not given to the zillah Judge in the new Regulation, because as the circuit Judges have for some years completed their circuits within the limited period, they are not now necessary; but he is constituted criminal Judge of the zillah, with the additional powers granted by Section 12, Regulation IV. 1811, and with the exclusive authority of committing offenders for trial before the court of circuit.

101. The Honourable Court direct the transfer of the duties of Magistrate to the Collector to be carried into effect, so as that the zillah Judges may be enabled to give their whole time to the administration of civil justice; but they also state, that they will not be averse to leave to the zillah Judges a concurrent power to act as Magistrates, in conjunction with the Collectors, provided that this can be effected without risk of collision between the two authorities. The Commission being persuaded that this concurrent jurisdiction could not be exercised without producing collision, have not given it to the zillah Judge; but, in place of it, they have given him, as before-mentioned, the powers vested in Magistrates by section 12, Regulation IV. 1811, the commitment of offenders and the preparation of all papers for trial before the court of circuit, and the charge of the jail; but he can issue no warrant, or exercise any authority beyond his own court, except in summoning witnesses, as in civil cases

102. The

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102. The Collector will be sole Magistrate of the zillah, without any concurrent jurisdiction, and with the powers originally vested in Magistrates by Sections 8 and 9, Regulation VI. 1802; except in the case of corporeal punishment, which is limited to eighteen instead of thirty rattans for petty theft. He will hear and determine all offences against the existing revenue laws of customs, tobacco, spirituous liquors, &c. and cause to be tried all disputes respecting boundaries, the occupation of land, and the appropriation of water for cultivation. When the extent of all these duties is considered, it will be evident that, in the division of duties between the criminal Judge and the Magistrate, the Commission have assigned to each that share which is most likely to prevent collision and to render their respective offices efficient.

103. The Commission observed, that the drafts of the two Regulations for the criminal Judge and for the Magistrate of the zillah were framed almost entirely from the Regulations for the office of Magistrate, in the code, with regard to offences which are criminal from their nature; but all those Regulations in the code regarding the police in military cantonments and military bazars, and facilitating the progress of detachments, and all those by which certain offences against the revenue laws of customs, tobacco monopoly, spirit licences, &c. are rendered criminal, were left untouched, and merely referred to because they are liable to frequent change. The Regulation for the trial of native subjects of the British Government charged with crimes or misdemeanours out of the Company's limits, was also left untouched, because in such cases a different process is directed to be observed.

104. The draft of the police Regulation differed from that formerly sanctioned by Government, only in such alterations as were requisite for the purpose of adapting it to the extended authority of the Magistrate, in place of the more limited authority of the Superintendent of police.

105. The Commission next noticed such alterations in each draft from the code as required explanation.

106. In the case of resistance to the Magistrate's process, the power of Government is by the code, in one case, absolute, without any previous report from the Fouzdar Adawlut, but in another their report intervenes previous to the final determination of Government. The Commission made the matter, in both cases, referrable to Government direct for their decision, there being no sufficient reason for incurring delay in the one case more than the other, and because the decision of Government should be prompt, whenever the authority of the Magistrate is to be supported.

107. By Regulation XIII. 1809, if a proclaimed offender surrender within the time limited, he has all the benefit of a trial; but if he surrender or is apprehended after the time, it is only necessary to identify his person, and to be satisfied of his contumacy, in order to sentence him to be imprisoned and transported for life. The Commission have given him a regular trial in both cases, because they see no cause to justify the continuance of so extraordinary and severe a law, which cannot now be admitted to be necessary, unless it be also admitted that the state of the country and of the police is worse than it was from the first promulgation of the code in 1802 down to 1809, when no such law was required.

108. Some sections of the same Regulation are rejected, by which, among other penalties, persons convicted of affording to the proclaimed offender lodging, money, grain, or other supplies, are liable to forfeiture of their estates; because such aid is often furnished from the dread of assassination, or from not knowing of the proclamation, and because the punishment holds out encouragement to private animosity.

109. The Commission made the rewards of one hundred rupees for heads of gangs of robbers, which were payable only on the authority of the court of circuit, payable by the Magistrate on his own authority, because he ought, as well for the maintenance of his authority as for the sake of saving time and avoiding useless references, to be allowed that discretionary power; and the Commission authorized the Magistrate to remove police officers from one station to another, without reference to any authority, because it is essential to the efficient dis-

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charge of his duty that he should be able at all times to employ them, wherever their services may be most useful.

110. All the alterations of any consequence in the rules of the code, which regard the office of criminal Judge, are as follow:

He is exempted from any cognizance of crimes committed by European British subjects, because the 53d George III. section 105 and 106, speaks of the Magistrate only.

All the reports required, which before were monthly, are made quarterly, because the same object of controul may be attained and labour saved by this arrangement, and other reports not deemed necessary are discontinued.

111. In the draft of the police Regulation, the Commission made complaints for abuse of authority of police officers cognizable by the Magistrate only, because it will give more efficiency to his office. If it be urged that the Magistrate will be partial to his own servants, and may overlook their offences, the injured party will still have the same remedy that he has now, by an action for damages in the civil court; and he will be the more likely to seek it than he is at present, because, as the Judge and Magistrate will hereafter be two distinct persons, he will not have the same motive to distrust the success of a civil suit on the failure of a criminal charge for redress, as he would, were the Judge and Magistrate the same person.

112. As by the Regulations which the Commission has been ordered to prepare the zillah Judges will be relieved from a great share of their present duties, the Commission stated it as their opinion, that there cannot exist the smallest necessity for the continuance of the Assistant Judges, and that they ought to be done away, as recommended by the Court of Directors.* The Commission also suggested, that the office of Judge at Cochin should be done away, as it was a place of little trade, and as it appeared by the judicial records that very little business came before his court.

113. The Commission recommended, that the drafts of the Magistrate and criminal Judge Regulations should be sent to the Foujdarry Adawlut for correction of any inaccuracy or omission.

114. The Commission having been directed† to report on the means which ought, in their opinion, to be adopted for carrying into effect the Regulations prepared by them and passed by Government, and also on the number and pay of the district Moonsiffs required for each zillah, observed in reply,‡ that the general circulation of the translations, and the appointment of the district Moonsiffs, appeared to them to be the best means of carrying them into effect; and they requested authority to forward manuscript copies of Regulations IV. V. VI. and VII. 1806, to each provincial and zillah court, with directions to the zillah Judges to prepare the number of copies that might be required for the district Moonsiffs of their respective zillahs; to forward copies of Regulations IV. V. and VII. to each Collector, with directions to furnish a copy to each of their Tehsildars, and to order the Tehsildars to assemble the Curnums, to take copies for the use of the head inhabitants of their several villages; or where there might be no Tehsildars, either to assemble the Curnums at his own cutcherry, for the purpose of taking copies, or to transmit copies to the Zemindars, with instructions to circulate them among their Curnums.

115. The expense of the district Moonsiff establishment proposed by the Commission amounted to Pagodas 22,440 annually, which, they observed, would be more than covered by the abolition of the four Assistant Judges and the court at Cochin, with their respective establishments; and the Commission recommended, that a list of the number and pay of the district Moonsiffs for each division should be sent to the provincial courts, with directions to proceed, in communication with the zillah Judges of their respective divisions, without delay, to the appointment of the district Moonsiffs.

116. The

* Letter from Court of Directors to Government, 29 April 1814, paragraph 104. † Letter from Mr. Secretary Hill, 8th June 1816. ‡ Letter to the Chief Secretary, 29th June 1816.

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116. The Commission were informed, in reply,* that the Right Honourable the Governor in Council had been pleased to fix the number and pay of the district Moonsiffs as proposed by them, and would cause the several provincial courts to proceed to appoint them as recommended, and that they were authorized to adopt the measures proposed by them for the circulation of the Regulations.

117. The Commission were subsequently furnished with an extract from the proceedings of the Sudder Adawlut,† respecting the suspension of the operation of the Regulation lately enacted, and were desired to frame the draft of a Regulation for that purpose, if deemed by them necessary: to which reference the Commission replied, that having received the sanction of Government to adopt the measures proposed by them for carrying into effect the Regulations, and Government having approved the establishment of district Moonsiffs proposed by them, the Commission had, in consequence, circulated the translation of the Regulations to the local authorities, and conceived that they were now in operation, and that any Regulation for suspending them was unnecessary.

118. On the 20th August 1816, the Commission submitted to Government their report on the information required by the first, eighth, and ninth Resolution of Government of the 1st of March 1815.§ The information required by those Regulations could be got only from the Collectors, by circulating forms of statements comprising all the details of information called for, together with a letter of instruction, pointing out the manner in which those forms were to be filled up. The Commissioners were aware, that from many of the districts accurate accounts were not to be looked for, because in some the requisite investigations had never been made, and in others the influence of the Zemindars, and the dependence of the Curnums upon them, would defeat the object of such investigations: but still they had reason to believe, that if the statements were carefully filled up, though the information might be defective, it would be all that could at present be known.

119. The accounts connected with the establishments of Potails and police officers were so voluminous, and so different in different districts, that to give a satisfactory explanation of them would have required a separate report for each district: the Commission, therefore, exhibited a general view of those establishments as they now exist, compared with what they were at the period of their falling under the government of the Company, and shewed the main points in which those of the principal divisions of the country varied from each other, and where they were defective they proposed the means best adapted for restoring them to their former efficiency.

120. The Commissioners stated, that Tanjore and Trichinopoly were the only districts in which the Collectors asserted that the villages had no head, and that in all other districts a head of the village was found, in some hereditary, in some appointed by Government or the Zemindar, and in some by the inhabitants: that although the office of Potail existed almost every where through the territories under the Madras Government, and was generally vested in one person, it was not always so, and that there were many villages in which it was vested in two or more persons, who acted jointly. For particulars on this head, the Commission beg to refer to the statement in their report.

121. The next subject for examination was, the willingness and the competency of the Potails to discharge the duties proposed to be assigned to them. As the Regulations defining those duties had not then been circulated, the Collectors had no standard to guide them in ascertaining the willingness or fitness of the Potails to execute them. Some of them gave this as the cause of not answering the Commissioners' questions on this subject; and those who answered them did it on the general idea which they might have formed of the duties to be imposed on the Potails from the Honourable Court of Directors' letter of the 29th of April 1814. Had their duties, however, been distinctly defined,

* Letter from Mr. Secretary Hill, 20th July 1816.
‡ Letter to the Chief Secretary, 17th August 1816.
† Ditto, 7th August 1816.
§ Ditto, 20th August 1816.

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defined, when the Commissioners' queries were circulated, the answers of the Collectors must still very often have been vague and indefinite, because, from the greatness of their numbers, there being from one to two thousand villages in a zillah, many Potails must, in the course of nature, have died, even during the inquiry, and been succeeded by others, whose fitness was not known The Commission were convinced, they would be found as willing and competent to discharge their duties, as could be expected from any body of men equally numerous: that numbers of them would, undoubtedly, be found incapable; but observed, "that we should not look to the inefficiency of particular individuals, but to the general result of the services of all." Some of the Collectors said that they were not willing, others that they were willing but not fit; but the more general opinion seemed to be, that they were both willing and fit: and it is a strong argument in support of this opinion, that those Collectors who have had the best opportunities of knowing them, are those who speak most favourably of their employment.

122. The Commissioners prepared an abstract statement, showing the number of villages where Potails are competent, or not, in each collectorate, as far as could be ascertained from the returns received by them, the opinions of the Collectors being chiefly confined to their competency, to which they beg to refer.

123. The official mauniums and fees of the Potails have been very different at different periods, and as they were in many districts occasionally augmented as well as diminished under the native Governments, there was no fixed standard by which their proper amount could be determined; and as few of the Collectors had any means of ascertaining what fluctuations they had undergone under the native Princes of the country, it was thought advisable to confine the Commissioners' inquiries to their amount as they stood at the commencement of the Company's government in the several provinces, and as they now stand, and both which the Commissioners exhibited in a statement prepared by them to which they beg to refer.

124. The Commissioners observed, that the allowances of Potails are extremely unequal in different collectorates; that in some they are chiefly in money, in others in land, and that in some there are none: that where those allowances have been done away, or are much below the usual rate of the districts to which they belong, the Potails obtain a compensation, by holding their lands at a more favourable rent than the ordinary standard, or the person who acts as head of the village is remunerated for his services by a voluntary contribution among the Ryots or Meerassadars: that it does not therefore follow, that the Potails have no official allowances, because they are not shewn in the accounts, or that it is necessary, in such instances, to make any new grant under this head: that wherever it has long been customary to pay the Potails, either by a reduced rent or by a contribution among the Meerassadars, it may be assumed as a certainty, that the circumstance has entered into the calculations both of Government and of the inhabitants, and that the assessment has, in consequence, been so much the lower. The amount ought, therefore, to be considered as a fund allotted to the maintenance of the heads of villages.

125. In some districts, the village mauniums formerly enjoyed by the head of the village have been resumed, and in lieu of them an allowance granted of two and a quarter per cent. upon the land revénue. In some few cases, this money allowance is more than the produce of the land resumed, but, in general, it is not a half, or even a third of it. An arrangement of this kind might be proper, where the object is to raise inadequate allowances to a higher level by a general standard; but where it is to commute an allowance in land for a very inferior one in money, it is destructive to the right of property, and is injurious to the public service, by lowering the character of the Potail. Land gives him a greater interest in the village, makes him more respectable among the inhabitants, and is more likely to secure his attachment to the Government of whom he holds it. There is no link but him between the Government and the cultivators, and unless he is upheld there can be no class of permanent respectable landholders; for the operation of the Hindoo law in

in dividing land among all the sons, and of the Judicial code in selling it for arrears, must gradually break down into minute portions every estate, which is not guarded by the entail of official tenure.

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126. There was not the same diversity of opinion among the Collectors on the subject of village watchers as on that of heads of villages. Malabar and Canara are the only districts in which the village watchers were said not to exist. In these their duty is done by the heads of villages, aided by their private servants and slaves; in all other districts the village watchers are found under some denomination or other. But as the returns of the Collectors were, in several instances, imperfect, from the want of materials, it was difficult to ascertain whether the persons whom they designated as village watchers were Talliars or Totties, or whether they had not mixed both in the same statement. Dundassi Barki and Noigwadie seem to be the terms by which the village watchers in the northern Circars are usually distinguished. In most of the districts to the south as well as to the north of the Kistna, there are many villages having no Talliar: in such villages the duty of watcher is frequently performed by some other servant. The inefficiency of the police establishment of the village is not, therefore, always to be inferred from the absence of the Talliar. Servants of the same denomination sometimes perform duties quite different in different districts. The duty of the Talliar is frequently discharged by the Totti, and in some districts, as Tinnevelly, there are no Totties, and their duty is performed by the Talliar.

127. The Commissioners beg to refer to a statement prepared by them, shewing the number of Talliars, and of the villages in which there are none; but it does not give a correct view of the establishment of village watchers, because servants, under other denominations than Talliar, are frequently employed on the same duty.

128. The Commission observed, that in most of the districts the funds of the Talliar establishments are sufficient in the aggregate, but inadequate in the detail. In many villages they are more than enough, while in other villages of the same district they are quite insufficient. The Collectors differed in opinion, both as to the proper number of Talliars and their allowances. The Commissioners think that no one general standard ought to be fixed for either, but that separate ones, regulated by local circumstances, should be taken by different divisions of the country. There are but few districts in which the information is such as to render it safe to make any increase without further inquiry: it is only where a survey has taken place, or where there has been a long course of detail settlements, that we can have any sure ground on which to proceed. In other districts the allowances are cancelled altogether, or under-rated, and in some cases probably over-rated, from the negligence or ignorance of native revenue servants. It should be considered, too, that the deficiency in one village cannot be made up by the excess in another, without infringing the rights of private property; for though the lands of Talliars were originally assigned for the performance of a public duty, long prescription has rendered them private property, as long as that duty is discharged. These reasons shew the necessity of not granting too hastily any additional allowance to make up supposed deficiencies: as long as the allowance, however low the amount, is such as to place the Talliar above the common labourer, and to render his situation an object of competition, it cannot be necessary.

129. The Commission stated, that the filling up the deficiencies in the Talliar establishment will require much previous inquiry, and is far too extensive an arrangement to be carried into effect at once throughout the country. The best way would probably be, to begin by selecting one or two collectorates in a division, and to make an arrangement for them, to be followed, as nearly as could be done, by the other collectorates of that division. Whatever place might be approved by Government for North Arcot and Bellary, would answer pretty nearly for all the districts between Trinchinopoly and Guntoor.

130. The Collectors of North Arcot and Bellary furnished the Commission with copies of reports made by them to the Board of Revenue on this subject, accompanied by a scale of allowances proposed to be given in order to make up deficiencies. As the scale differed in some points, which require explanation,

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tion, the Commission meant to have forwarded a few queries to both Collectors, and to have submitted hereafter their answers with their opinion to Government, but have hitherto been prevented by other business from carrying their design into effect.

131. The Commission prepared an abstract statement, exhibiting the amount of the Talliar allowances at the commencement of the Company's government and at the present time, to which they beg to refer.

132. From the returns by the Collectors the Commission prepared an abstract of the whole of the municipal charges, shewing the amount at the beginning of the Company's government and at the present time, and the resumptions and grants made in the interval between those periods, to which they beg to refer. The resumptions are chiefly among the Poligars, Cavilgars, Kulbuddee, and other classes of Peons. The dangerous power of some of those chiefs, and the inutility of their establishments, were the causes of similar resumptions having been made by some of the native Princes at more early periods. The accounts received from the districts are not sufficiently accurate to enable the Commission to determine whether all the lands entered under the head of police actually belong to that description or not. Lands held under different tenures are frequently entered in revenue accounts under the same head, and the necessary separation cannot be made, unless by a minute and tedious investigation by the local authority. Even where no doubts remain that lands have been originally allotted for police duties, which are no longer performed, the amount of their rent cannot be reckoned upon as an available fund. The resumption hardly ever produces the estimated rent: it often adds little or nothing to revenue, and brings distress upon a great number of poor individuals, such as Kulbuddee Peons, by depriving them of the means of subsistence, and forcing them, from their inability to pay the rent, to relinquish the cultivation of their lands, the greater part of which is, in consequence, allowed to remain waste: and this takes place not only with regard to their service lands, but to lands paying revenue, which they were enabled to cultivate, by the aid of the exemption of their lands from taxation.

	S. Pagodas	F.	C.
133. If the total grants under the Company's government,	98,857	29	39
be deducted from the resumptions	5,28,609	44	68
there will remain a balance of resumptions amounting to	4,29,752	15	29

It has been already explained, that lands thus resumed cannot be taken at the estimated rent; but after making full allowance for every decrease from these causes, there will still remain a fund which may fairly be considered as applicable to the completing of the deficiencies in the municipal establishments of the country, which will far exceed every demand that can be made for that object.

134. The Commission have already adverted to the defectiveness of the accounts received from some districts, and to the causes of it. They believe, however, that the Collectors endeavoured to make them as complete as the circumstances of the respective districts enabled them to do. The Commission were, however, compelled to make one exception in the Collector of Tanjore, who neither in the language, nor in the substance of his communications, had shewn any desire to forward the object of introducing the system authorized by Government, which he throughout treated as a measure of the Commission, not of the Government. He declared, that there were no heads of villages in Tanjore, that there were no instruments to carry it into effect, and that it could not be introduced into that province. He convinced the Commission that no real co operation was to be expected from him, and that no hope of success could be entertained, if he were entrusted with the execution of the measure.

135. On the 7th of August 1816, Mr. Secretary Hill transmitted to the Commission * an extract from the proceedings of the Sudder Foujdarry Adawlut on the drafts of Regulations submitted to Government, with the Commissioners'

* Letter from Mr. Secretary Hill, 7th August 1816.

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missioners' report of the 25th June preceding. The Sudder Foujdarry Adawlut having observed that the period within which they were required to make their report on these drafts was too limited to admit of a revision in detail,* the Commission made the revision themselves; and in submitting the revised drafts to Government, stated the changes which had resulted from it, and answered, at the same time, the Sudder Adawlut's objections.

136. The Sudder Adawlut remarked, "that the orders of the Honourable "Court of Directors were positive for the transfer of the duties of Magistrate "to the Collectors, so as that the zillah Judges may be enabled to give their "whole time to the administration of civil justice; instead of which the "Commission had made them, under the title of the criminal Judge of the "zillah, the committing magistrate in all cases triable by the court of cir- "cuit."† The Commission remarked, that they had stated in a former report their reasons for making this division of authority, in place of leaving to the criminal Judge a current magisterial jurisdiction.

137. The Sudder Adawlut observed, "that the revenue duties of the Col- "lector would be but little interrupted by the commitment of offenders for "trial, and that an attendance in the court of circuit twice in each year would "not extend to any considerable occupation of the Collector's time." The Commission answered, that it is not the mere act of committing prisoners for trial, but the preparation of papers, that takes up time: that prisoners and witnesses will now be sent direct to the zillah station by the district police officers, whereas, if the Collector, as Magistrate, committed, the witnesses and prisoners would, in all cases punishable by the criminal Judge, have to make two journies instead of one, first to the Magistrate, and then to the criminal Judge: that an attendance on the court of circuit does not move the criminal Judge from his station, but might bring the Collector from a distant part of his district, and interrupt his revenue and police duties. This repeated every six months, would probably occupy six weeks or two months in the year: a space of time much too long to be sacrificed to mere form.

138. The Sudder Adawlut apprehended, "that the revenue administration "being the primary, and that of justice the secondary duty of the office, a "Collector may neglect his judicial duties." To this the Commission remarked, that revenue is not made his primary duty; but where two duties are to be performed, and both must be attended to, revenue must give way to the duties of the magistrate in all essential matters, but it must not be neglected for points of form. No public officer is so much interested in the good order of the country as the Collector, and he is, therefore, as little likely as any other to neglect the magisterial duties on which it so much depends.

139. In the draft of the magistrate Regulation it is provided, that in the examination of prisoners charged with heinous crimes, previously to their being forwarded to the criminal Judge, it shall not be necessary for the Magistrate to go further into the examination than to satisfy his own mind that there is ground to believe the prisoners guilty of the crime charged against them. The Sudder court observed, "that the introduction of this duty by a negative, "may lead to different interpretations, as to the sufficiency of the ground on "which the Magistrate is at liberty to found his belief of the guilt of the ac- "cused." The Commission observed, that as the examinations before the Magistrate are on oath, there can be no greater latitude for different interpretations as to the sufficiency of the ground, than there is under the existing Regulations, which direct the prisoner to be committed when there is "ground "to suspect him of having been concerned" in the crime charged against him.‡ The Sudder Adawlut remarked, that "if the belief on which the "Magistrate is to forward the accused to the criminal Judge be the result of "a grave proceeding, sufficient to warrant the commitment of the prisoners "for trial, all that is left to be done is to make out the mittimus of the pri- "soners, to record the names and residence of witnesses, and to take recog- "nizances from the prosecutor and his witnesses." But the Commission observed,

* Letter to the Chief Secretary, 29th August 1816.

† Letter to Government, 25th June 1816. ‡ Section 5, Regulation VI. 1802.

served, that this enumeration is far from comprizing all that the Magistrate would have to do, for he would have to translate the papers into Persian and English, to prepare the calendars for the court of circuit, to send out the summonses to the prosecutors and witnesses, to attend that court, and to examine every prisoner himself, instead of having him forwarded direct to the criminal Judge by the Tehsildars.

140. The Sudder court seemed to imagine that the criminal Judge was made, in every case, to repeat a duty already performed by the Magistrate, and that relief was afforded to the Magistrate in appearance rather than in reality. This the Commission stated is a mistake, because all cases cognizable by the criminal Judge will be sent to him direct by the Tehsildars, as is now done by the police Darogahs, and such cases only as have been preferred to the Magistrate, in the first instance, and which he cannot punish, will be sent by him to the criminal Judge. The Sudder court supposed that "the prosecutor in most, and the witnesses for the prosecution in "all cases, would have to make three journies to attend different tribunals." By the arrangement proposed by the Commission this never can happen: the witnesses will in no case attend more than twice, and in many only once. But if all commitments for trial were to be made by the Magistrate, the witnesses would be obliged, in every instance, to attend twice, and very often three times: they would first be sent for examination by the police officer to the Collector acting as Magistrate; if the Collector could not punish himself, he would forward the witnesses and prisoner to the criminal Judge, and when he was committed for trial by the court of circuit the witnesses would have to attend a third time.

141. The Sudder Adawlut observed, it may be necessary for the criminal Judge to take before him and examine the witnesses, in the event of the Magistrate's proceedings being defective, "and delay may thus be occasioned." The Commission remarked, that the same thing happens now, if the Darogah's proceedings are not carefully drawn up; and the same thing would happen if the Magistrate committed, when the Tehsildar's proceedings were defective.

142. In considering the transfer of the duties of Magistrate to the Collector, the Court remarked that "it is impossible entirely to overlook the distresses to "which the poorer classes may be subject in pursuing the motions of a wan- "dering tribunal." The Commission, far from thinking that the mobility of this tribunal will distress the poor, are of opinion that this very quality will render it most useful to them. It is the fixing the office in one place which has hindered complaints from reaching it, which has prevented the Magistrate from making local inquiries into abuses, and which has rendered it so inefficient. With respect to heinous crimes and offences, the moveable nature of the Magistrate's tribunal will make no difference in the mode of investigating them, as the prosecutor and witnesses will, as formerly, be sent direct to the zillah station by the Tehsildars.

143. The Sudder court objected to the title of criminal Judge being given to the zillah Judge, and of zillah Magistrate to the Collector. Arguing upon the assumption that the proposed modifications of the law were merely temporary, they recommended to assign new names to new offices created in the course of experiment, rather than to strip an existing office of its known designation, and to give to it an appellation indicative of a change which has not taken place in the authority vested in the office. The Commission observed, "that a very great change has taken place in the authority vested in the office "for the charge of the police. The maintenance of the peace of the country, "and almost all the duties of the Magistrate, have been transferred to the Col- "lectors," and the Commission thought the official designation should be transferred with the duties. That part of the magisterial duties formerly exercised by the zillah Judge, which now remains to him, is a very small part, and as it is purely of a criminal nature, namely, the punishment and commitment of criminals for trial, the Commission conceived the appellation of criminal Judge much more appropriate to this office than that of zillah Magistrate.

144. The Sudder court doubted the legality of giving to the Magistrate the cognizance of complaints against European British subjects, referred to in the

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Act of the 53d Geo. III. They observed, that "the fixed resident Magis- "trate, and not the travelling office of the Collector, is the authority contem- "plated by the Legislature in framing the Act." The Commission see nothing in the Act to justify the inference that the Legislature considered it necessary that the Magistrate should be stationary; all that the Act requires is, that the Magistrate shall be a justice of the peace.

145. The court objected at considerable length against cases of resistance to process being made referable directly to Government. They observed, that the reference, in the first instance, to the Sudder court would never take more than three months. The Commission imagine, that the records will shew that it has always taken longer, yet as the case is one of very rare occurrence, the inconvenience will be of the less consequence; and it being the Commissioners' wish to avoid alterations in the existing laws, without strong grounds, they restored the original sections in the revised drafts.

146. With regard to Regulation XIII. 1809, the Commission inserted no part of it in their revised drafts, and allowed it to stand in its original form, because they thought it ought to be rescinded altogether. This measure was recommended by the first Judge of the centre division, on the grounds of the difficulty of obtaining sufficient evidence of the proclamation having been heard by the person to whom it had been addressed, of no person having yet surrendered under it, and of its being totally inefficient. The Regulation was passed in Bengal when gang robbery had reached an alarming height: it was adopted here in 1809, when the number of banditti, so far from having increased, was daily diminishing.

147. The Sudder Adawlut, though they did not say that the Commission had touched the revenue laws, asserted, "that their character had been totally "altered by transferring them to the cognizance of the Collector." Those duties of the Magistrate are transferred with the office to the Collector by order of the Court of Directors, who no doubt considered that if the character of the Regulations in question were in any degree changed, the inconvenience, if any, would be outweighed by the advantages of the measure. It was supposed that the interest of the revenue might influence the Collector in his duty as Magistrate, but if the Regulation be examined, it will be found that the Collector, in the cases cognizable by him, has no particular interest to bias his decisions, and that their character is only so far changed as to render them more operative than formerly.

148. The transfer of these duties to the Collector appeared, however, to the Sudder court, to be done in direct opposition to the expressed intentions of the Court of Directors, and they brought forward a paragraph, entirely unconnected with the subject, to make it appear that the Court of Directors did not authorize the transfer. But, in the paragraph alluded to, the Honourable Court were delivering their sentiments on a subject totally different. Their intention is obviously that, though the Collector should determine questions of revenue collections between Zemindars and Ryots, he should not determine such questions between the Zemindar or Ryots and himself or servant; but they have no reference to the cases in which the Collector, as Magistrate, takes cognizance of frauds in the customs, of smuggling, of selling spirits without licenses, or of acts of extortion or oppression committed by his own servants.

149. It was concluded by the Sudder Adawlut, that the Collector was an interested party in all offences against the revenue laws; but the Collector, as Magistrate, has not authority to punish those offences which can affect the standard of the revenue, for smuggling, the only offence by which it can be affected, is not punishable by him. The Commission shewed, by a short statement of the offences against the revenue which are cognizable by him, how little ground there is for apprehending that he can have any particular interest, at all likely to influence his decisions upon them.

150. The Sudder court suggested that the zillah Judge should, in place of criminal Judge, be constituted a Judge of sessions. The Commissioners replied: by this the Judge would only be able to hear charges when the sessions came round, whereas, at present, he may hear them on any day he is at leisure.

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sure. It might often happen that a criminal case would come before him at a time when there was no civil business; yet he would be obliged to postpone it until the regular sessions day.

151. It may be inferred, from an observation of the Sudder Adawlut, that the Magistrate is absolved from keeping any record at all, and thus exempt from all control; whereas he is required in all cases, except petty offences, to keep a record of his proceedings. To remove, however, all objection on this head, the Commission provided in the revised drafts, that the Magistrate should keep a record in every case of petty offence, when the punishment ordered might exceed a fine of five rupees or two days' imprisonment. There are many petty offences so trifling in themselves, that they ought not even to reach the Magistrate, but to be settled on the spot.

152. The Commissioners found, upon an attentive examination of the code, that the respective duties of the Magistrate and the criminal Judge could not be clearly defined by a few additional sections referring to existing Regulations, and that confusion could be obviated only by collecting and comprising their several duties in two distinct Regulations. The Sudder Adawlut not having corrected their drafts, the Commission made such corrections as were suggested by a careful revision of them, and by the remarks of that court, and recommended that the revised drafts should be passed without delay.

153. The Commission subsequently submitted to Government, in conformity to their resolution of the 25th May 1816, a draft of a Regulation incorporating in the boundary dispute Regulation provisions, authorising the Collector to settle all disputes respecting the occupying, cultivating, and irrigating of land, which might arise between the renters and their Ryots. The Collector, by the original draft, was authorized to annul the decision of a punchayet on proof of gross partiality; but, the provisions of the Regulations being now extended to other cases besides boundary disputes, the Commission thought it advisable to withdraw this power from him, and to allow the decision of a punchayet to be annulled only by the provincial court of appeal, under the rules already sanctioned by Government. The Commission recommended this Regulation being also passed without delay.

154. The Commission were informed, in reply, that the Right Honourable the Governor in Council had been pleased to pass these several Regulations,* and that Regulation XIII. 1809, and Section 9, Regulation VI. 1811, respecting proclaimed offenders, should be rescinded, as recommended by them, and that the establishments of police Darogahs and Thanadars should cease from the 1st of November 1816.

155. The Commission stated their conviction, that when sufficient time should have passed for those Regulations to be generally understood, and to be completely carried into effect, they would be found to answer the end expected from them by the Honourable Court of Directors.

156. The Commission again addressed Government, recommending that the Regulations should be immediately promulgated; that directions should be sent for administering to the Magistrates and the criminal Judges of zillahs the oaths of office, that they should be directed to administer the oaths of office to their respective assistants; that the zillah Judges should be directed to administer the oaths of Justice of the peace to such of the Collectors of zillahs as might not have taken them; that the criminal Judges should be directed to transfer all police establishments to the Magistrates of the zillahs, with the exception of what might be necessary for the security of their respective jails; that the attention of the zillah Magistrates should be called to the dismission, by law, of all police Darogahs and Thanadars, from the 1st November 1816, and that they should be directed to order such records as might belong to the office of the Darogahs to be transferred to the charge of the Thanadars, or other revenue officers; that the criminal Judges should be required to meet the Judges of the court of circuit on their arrival at their respective stations; that Regulations XI. and XII. of 1816 should be sent to the translators to be translated into the native languages; that the translators should be

* Regulations IX, X, XI, and XII, 1816.

be directed to furnish the Commission with twenty-five copies of each translation; and that the Commission should be authorized to forward copies to each Collector, with directions to furnish a copy to each of his Tehsildars, and to order the Tehsildars to assemble the Curnums, to take copies for the use of the head inhabitants of their several villages, or where there might be no Tehsildars, either to assemble the Curnums at his own cutcherry for the purpose of taking copies, or to transmit copies to the Zemindars, with instructions to circulate them among the Curnums, in the same manner as was done by the Tehsildars.

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157. These suggestions were adopted by Government, and the Judges, Collectors, and Magistrates, ordered to attend to all directions they might receive from the Commission on the subject of carrying into effect the new Regulations.

158. The drafts of five Regulations prepared by the Sudder Adawlut having been sent to the Commission, in order to their being revised, with the view of preventing their provisions from interfering with those of the Regulations lately enacted, the Commission observed, in answer, that the draft of the Police Magistrates' Regulation was rendered unnecessary, by Government's having passed the Regulations IX. and X. of 1816; and they recommended that the consideration of the draft of a Regulation for giving greater publicity to certain clauses of the Act of the 53d George III. cap. 155, should be deferred, until the opinion of the Company's law officers should have been received, as to the application of the Act to Regulations IX. and X. of 1816.

159. In revising the stamp Regulation, with a view to prevent its provisions from interfering with those of the Regulations lately passed, several alterations being necessary, the Commission deemed it proper to submit a new draft.

160. The material modifications which appeared advisable to the Commissioners to make in the stamp Regulation were: 1st, Bringing all the cases in which stamp paper of European manufacture is to be used under the same section. 2d, Rendering unauthorized venders of stamps punishable by the criminal Judge instead of the Magistrate. 3d, Specifying the principle on which the value of real and personal property was to be estimated in suits preferred to the courts 4th, Introducing the words "Sudder Aumeens and District Moonsiffs," in place of "Native Commissioners." 5th, Requiring that all applications for the admission of exhibits in the courts of Sudder Aumeens, and all answers, replies, and rejoinders in those courts, should be written on paper of the value of four annas, and copies of decrees on paper of the value of eight annas. 6th, Exempting all petitions to the zillah Magistrates and Collectors from stamps, because the communications between the inhabitants and these authorities should be encouraged. 7th, Exempting from stamp duty all bonds and other instruments under sixteen rupees, as heretofore, to prevent inconvenience to the poorer classes. 8th, and to the last section of this Regulation a proviso was added, in order to adapt it to the Regulations which had been lately passed.

161. In the Regulation for amending and modifying the rules which had been passed regarding the office of Vakeels or native pleaders, and that for modifying the jurisdiction of the zillah and provincial courts and the courts of Sudder Adawlut, in the trial of original suits and appeals, for amending some of the rules there in force regarding the admission and trial of special and summary appeals, and for limiting and altering some of the provisions respecting the pleadings and processes, and the mode of executing decrees in regular suits and appeals, the alterations were so trivial, that no new drafts were required, and the Commission submitted that the three Regulations should be immediately passed by Government.

162 These Regulations were accordingly passed, and numbered XIII. XIV. and XV. of 1816, to be in force from the 1st February 1817; and the Commissioners were furnished with a copy of a circular letter to the several Judges and Collectors, desiring them, on all points connected with the transfer of the office of Magistrate from the Judge to the Collector, or with the introduction of the new system of police, on which they might require explanation or instructions, to referfor that purpose to the Commissioners.

163. The

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163. The Commission having been furnished with the proceedings of the Sudder Adawlut on the exclusion of the zillah court station from the jurisdiction of the district Moonsiffs, they, in their address to Government, observed that they wished the district Moonsiffs should not be fixed at the zillah stations, but at any other place that might be most convenient for the inhabitants in general; and that the zillah station should be included in his jurisdiction. The Commission thought, that as the number of district Moonsiffs was very limited, they ought to be so distributed as might render the access to justice most easy to the whole population: that where there were larger villages in a district than that in which the zillah court was stationed, they were better calculated than it for the residence of a district Moonsiff; and that, even where the court was held in the largest village of the district, a district Moonsiff might be stationed to greater advantage in an inferior village, because his presence was less necessary at the zillah court station, where the inhabitants, without the trouble of quitting their homes, had on the spot a Judge and Register and Sudder Aumeens to try their suits, and because, though the inhabitants of such stations were subject in the court of the Sudder Aumeens to stamps, exhibit fees, and fees to summonses to witnesses; yet this expense was nearly counterbalanced by their being exempted from the inconvenience and expense of leaving their homes to attend distant tribunals.

164. The Sudder Adawlut having remarked that "it is not in the knowledge of the court that any reason has been assigned for subjecting the proceedings in the courts of the Sudder Aumeens to the expenses of stamps, "exhibit fees, and fees on summonses;" the Commission observed, that those expenses were deemed expedient, in consequence of the change which the office of Sudder Aumeen had undergone; that it was formerly open to all persons, and the number was unlimited; that it was now restricted to the law officers of the court; that its jurisdiction had been extended from one hundred to three hundred rupees; that it was now a court of appeal from the decisions of the district Moonsiffs, which it was not before; that all its process issued under the seal of the court and signature of the Judge or Register, and that it was rather a part of the court itself than a district native tribunal; and that it was, therefore, thought advisable to prescribe the same rules for the trial of suits by the Sudder Aumeens as by the zillah court, more particularly as the suits which would now come before it would be chiefly appeals, which were always subject to those charges.

165. The Sudder Adawlut supposed that "the inhabitants of the zillah "station would, by the stamps and fees, be exposed to peculiar disadvantages "in the pursuit of justice;" but the Commission observed, that it is only in suits under one hundred rupees that the parties can be liable to any charges which they did not formerly pay, for the suits from one hundred to three hundred rupees were not cognizable by the Sudder Aumeens, and were consequently liable to the charges of the zillah court; and, as the zillah Judge may refer all suits under two hundred rupees to any district Moonsiff, the inhabitants of the zillah stations may, by this means, be exempted in such suits from the expense of stamps and fees on exhibits, and fees on summonses to witnesses. It is also in the power of any inhabitant of the zillah station to obtain the same exemption without the intervention of the Judge, by bringing his cause, in the first instance, before the district Moonsiff. It is true that, in this case, he may be obliged to quit his home during the trial. This, however, is no peculiar disadvantage, but one to which he is subject, in common with the inhabitants of every village or town in which there is no district Moonsiff stationed.

166. On the 19th July 1816, the Commission forwarded to the several Collectors of districts translates of the village Moonsiff and village and district Punchayet Regulations, numbered IV, V, and VII, of 1816, with directions to circulate them for the use of the head inhabitants of villages, and to make it known that they were to be acted on as soon as they were circulated; and, on the 23d September, the Commission called upon the Collectors to state how far those instructions had been carried into effect. Their answers to this letter, and, where necessary, to that of the 19th July, the Commission submitted for the information of the Right Honourable the Governor in Council.

167. From

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167. From the abstracts which the Commission gave of the communications from the Collectors, it appeared that, in almost all the districts, great progress had been made in the circulation of the Regulations among the Tehsildars and Curnums: that in Cuddapah, copies to all the Tehsildars, with orders to assemble the Curnums, had been issued as early as the 9th August: that the same steps had been taken in most of the other districts, before the end of September; that before the middle of October, in some districts, the greater part of the Curnums had already taken copies, and in most of the others they had made so much progress in taking them, that the Collectors had issued orders to act upon the Regulations: that in Malabar and Canara copies had not yet been circulated to the talooks, but that the delay was unavoidable, owing to the Collectors of those provinces being obliged to get the Malabar and Telinga translations sent from Madras translated into Malayalum, for the inhabitants of Malabar, and into Canari and Hindowi for those of Canara; and that in Tanjore alone there seemed to be any cause to apprehend that the Regulations would not be speedily and completely circulated. The Commission brought the substance of Mr. Hepburn's communications on the subject to the notice of Government, and stated that it only served to confirm them more strongly in the belief of the correctness of the sentiments which they expressed in their report of the 29th of August last, that, "in the introduction of the new system, no real co-operation is to be expected from the Collector of Tanjore." The Commission further observed, that they were unable to state what progress had been made in circulating the Regulations in Rajahmundry, as no report had been received from the Collector of that district.

168. The Sudder Adawlut having expressed an opinion, that "the efficacy of rewards, in facilitating the apprehension of offenders, would be diminished by the recision of Regulation XIII of 1809," the Commission shewed, by the returns of those apprehended, that since the enactment of that Regulation, no effect had resulted from it, which might not have been produced without it; and the Sudder Adawlut did not shew from the state of the Cuddapah zillah, where more offenders have been proclaimed than in all the rest, that any good had resulted from the rescinded regulation.

169. The Sudder Adawlut adopted an opinion of the late Magistrate of Cuddapah, that "in the endeavours to provide against collision between the two authorities of criminal Judge and Magistrate, an error has been committed in the Regulation, from which material inconvenience may be apprehended." The inconvenience was stated to be, that the criminal Judge, in the investigation of heinous crimes necessary previous to the commitment for trial, cannot correct the errors in the proceedings of the police officers, from whose hands he is required to receive the accused; nor if he should, in the course of the investigation, discover that others have been concerned in the perpetration, does he possess any means of getting at them, for he cannot issue a warrant, and he cannot communicate with the other Magistrate under whom the police is placed. The Commission observed, that they could not assent to the construction given to the Regulation by the Sudder Adawlut, or admit that the Regulation contained the error to which they adverted: that the Sudder Adawlut founded their opinion that the criminal Judge was debarred from communicating with the Magistrate in Section 25, Regulation IX. 1816. The Commission stated, that the concluding expression, "and no other communication shall be necessary," was intended to apply merely to the case of the particular prisoner forwarded by the Magistrate to the criminal Judge, and that it did not appear how it could, without violence, be made to apply to any thing else: that the zillah Magistrates and Collectors were not restrained, under the old Regulations, from corresponding on matters of public duty, and it had been the practice for them to communicate on such matters whenever it was deemed requisite for the benefit of the public service: that the practice, so far from having been prohibited, was rather encouraged by the new Regulations; for the Magistrates were positively directed to communicate to each other, whatever information they might receive on points likely to affect the peace of their zillahs.

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170. The Commission stated, that they thought it proper to say thus much, with the view of endeavouring to vindicate the language of the Regulation, being aware that, whenever doubts arose regarding the meaning of the Regulations, that by the existing law the interpretation of the Sudder Adawlut was final,—and that, however useless such a proceeding might appear, a new Regulation, in conformity to that interpretation, must be added to the code. The Commission further observed, that if the Right Honourable the Governor in Council were of opinion that communication between the zillah Magistrates and criminal Judges was not precluded by the words which excited the doubt of the Magistrate of Cuddapah, it might, perhaps, be deemed a matter not undeserving of future consideration, whether the construction given by the Sudder Adawlut to the Regulations, where doubts arose regarding their meaning, should not be made subject by law to the sanction of Government.

171. The Board of Revenue having stated the necessity of suspending the operation of Regulation XIII. of 1816, till the commencement of the ensuing fusily, the Commission were required to state also their sentiments on the subject. The reasons assigned by the Board of Revenue, in support of the measure, were the difficulty of supplying the courts with stamp paper before the 1st February 1817, and their business being thereby rendered liable to interruption, and its being almost impossible to convey translates of the Regulations in the several vernacular dialects to the provinces of Canara, Malabar, &c. by the 1st February, and the hardship which it would be on all classes of people to preclude them from bringing into court, after that date, any deeds or other instruments which had not been written on stamp paper, which could not reach those distant provinces within the prescribed period.

Sic orig.

172. By the Bengal Regulation,* an interval of four months was allowed to make the necessary arrangements, and by the Madras Regulation, an interval of three months and five days; and though the period allowed at Madras was less than in Bengal, the Commission observed that there were many circumstances which ought to make it equally adequate to the completion of the previous arrangements: that the Bengal Regulation prescribed an additional die for one anna stamps, which, as it embraced all transactions within sixteen rupees, would require more paper than any other stamp; this stamp was dispensed with by the Madras Regulation: that the distance between Madras and its remote provinces was considerably less than between Calcutta and its more distant dependencies, and the stamp paper might, of course, be transmitted in a shorter time: that, by the Bengal Regulations, the Superintendant of Stamps, or the officers acting under his authority, were required to endorse each piece of stamp paper with their official signature, and that, by the Madras Regulation, endorsement was to be made by the Collector or his assistant. Under all these circumstances, the Commission conceived that the time allowed was amply sufficient for every purpose, and that there ought to be no necessity for suspending the operation of the Regulation. The Commission stated, that should it nevertheless be deemed necessary to suspend the operation of the Regulation, it would also be necessary to suspend that of Regulations XIV. and XV. of 1816, as they both referred to Regulation XIII. of 1816; but the Commission conceived that, instead of carrying the suspension to the 12th July, as proposed by the Board of Revenue, it would be sufficient to extend it to the 1st March or 1st April 1817.

173. With regard to the revenue relinquished by the new stamp Regulation, the Commission observed that the drafts of that, and of four other Regulations, were sent to them to be revised, "with a view of preventing their provisions "from interfering with those of the Regulations lately enacted:" that they were ignorant of the amount of revenue affected by it, and conceived that, whatever it might be, provision would be made for its security by a separate Regulation, and they expressed their opinion that the Board of Revenue should be authorized to frame a Regulation for that purpose.

174. The Collector of Rajahmundry having explained the reason of his silence respecting the circulation of the Regulations IV. V. and VII. of 1816,

* Regulation I. 1814.

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1816, which he stated were then distributing, and of the delay in transmitting the statements required of him connected with the establishment of Potails and police officers, his letter on the subject was submitted by the Commission for the information of Government; and they took that occasion to notice the completion of the Malayalum translations of the same Regulation, and to state that copies of them had been distributed throughout the Malabar province.

175. The Collector of Tanjore having, since the Commissioners' report of the 16th November 1816, transmitted to them two estimates of expences to be incurred in carrying the new Regulations into effect, and having stated that their being sanctioned by Government was necessary to enable him to begin the preparation of pottahs for Potails, and the list of stamp-paper prices mentioned in those estimates, the Commission deemed it proper to submit the correspondence which had taken place between him and the Commission, on this and some other points, for the information of the Right Honourable the Governor in Council, as the Collector's subsequent explanations gave a different view of his intentions from that which the Commission had taken, respecting the appointment of Potails in Tanjore. The Commission expressed their satisfaction at the progress made by Mr. Hepburn: they observed, they were aware he would, in some instances, meet with difficulties in carrying the Regulations into effect, and that on receiving his promised statement of them, they would submit it, with their opinion as to the remedy which ought to be applied.

176. The Commission expressed their regret, that the same intemperate tone which they had more than once had occasion to bring to the notice of Government, was still pursued by Mr. Hepburn in his recent communications, with regard to the estimate of the expense attending the preparation of the list of stamp paper and pottahs for Potails. The Commission observed, that they had received no charge of the kind from any other Collector. They expressed their ignorance, whether the revenue establishment of Tanjore was more limited, compared with the duties required of it, than that of other Collectorates: but as the Collector would not commence the preparation of the estimate, and as any further delay in preparing the pottahs would be productive of much inconvenience, the Commission submitted the estimate for the orders of Government.

177. The First Commissioner left the presidency early in the year 1817, and proceeded to Tanjore, to learn what progress had been made in the appointment of heads of villages required by the Regulations, what were the obstacles by which its execution was impeded, and what were the means by which they could be removed. By the First Commissioner's report to Government, it appeared that the whole number of villages in the Tanjore zillah was.............. 6,011
that Potails were already appointed, and lists sent to the Tehsildars, for... 4,108
and that for the remainder.. 1,903
no Potails had yet been appointed, owing to various causes which were inserted opposite to the totals of the several classes of which those villages are composed. Of the 1,903 villages without Potails, Colonel Munro observed, that the number of uninhabited villages would probably amount to about six hundred, and leave only 1,303 without Potails; but as one hundred and forty of these belonged to the Rajah, and as the greater portion of the remainder was likely to be rented, it was probable that very few, if any, would be left, for which Potails might not be provided under the existing Regulations.

178. As it appeared, from the returns sent in by the Tehsildars to the Collector's cutchery, that of the Potails ordered to be appointed, many had refused the office, and others, after accepting, had thrown it up, the First Commissioner required the acting Collector to assemble the principal landholders of the Myaveram district, that he might have a full discussion with them on the subject.

179. The meeting lasted many hours, during which time they brought forward every argument they could devise, and which are detailed in Colonel Munro's report, against their being required to act as Potails or heads of villages. When they were desired to enter into particulars, and specify the duties they would have to discharge under the village Regulations, and when it was shewn to them that those duties did not differ essentially from those which they had always been accustomed to perform, they had recourse to general argument,

that

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that their time was so much occupied in cultivation and finding the means of paying their rents, that they had none to spare for other purposes.

180. It was evident, from the whole of their arguments, and from each individual concurring, without the slightest variation, in every point with the two or three principal speakers, and from all asserting what they knew to be unfounded, namely, that no Meerassadars had superior authority to another, that they had preconcerted their answers, and that they acted under the influence either of some of their own numbers or of some leading men in the country.

181. Colonel Munro thought it, in consequence, advisable to have no more meetings with bodies of the principal inhabitants, in order to have their opinions respecting the office of Potail, but to confine his enquiries chiefly to the nature of the internal administration during the native Government, and as to how far any of the head inhabitants had a share in it, similar to that which is usually assigned to Potails in other districts. The accounts the First Commissioner obtained, though they differed in many minor points, concurred in the main one, that in villages held by a number of proprietors or Meerassadars, there was one who, under the title of Natumkar, exercised authority over the rest in all public concerns of the village, having the village servants under his immediate authority, making the collections and exercising coercion against defaulters, settling petty disputes, &c.

182. The First Commissioner stated, that there is no sufficient cause why the head Meerassadars or Natumkars of Tanjore should not, as well as the head Ryots of other districts, act as heads of their villages. The very circumstance of the Meerassadars being in general intelligent, renders it more easy to establish village Moonsiffs and village punchayets in Tanjore, than in districts whose inhabitants are less instructed. The First Commissioner therefore suggested, that the Collector should be ordered to direct the Natumkars to act as Potails, as the principle should be maintained, that every village must find a head man to discharge the duty of executing its public business, in the manner required by Government: that to take the opinions separately of all the individuals composing so numerous a body, as to their being willing or not to undertake the office, would answer no purpose but to raise difficulties and occasion delay, and that, indeed, such opinions could not be obtained; for it was well known, that there were always a few leading men in each district, by whom all the other heads of villages were guided: that from the principle, that every village must find a head, not having been observed in Tanjore, either before or since the passing of the Regulation for the appointment of Potails to do the duty of village Moonsiffs, and from its having been thought necessary, not only after the passing of that Regulation, but even after what was called the appointment of the 4,108 Potails, to consult the Potails as to their being willing or not to discharge the duty of the office, the introduction of the proposed arrangement had been much retarded: that the appointment of the 4,108 Potails consisted merely in the Collector's authorizing that number to be appointed to a similar number of villages, according to lists of villages, and Meerassadars to act as Potails, which had been submitted to him by the Tehsildars; but that, as the option was still offered to the Potails thus appointed to hold or relinquish the office as they thought proper, the consequence had been, that as far as could be ascertained, the number of those who had declined was much greater than that of those who had agreed to act, and that the system of village Potails was as far as ever from being established.

183. The First Commissioner shewed, that the Meerassadars ought to defray the expense of remunerating the Natumkars, should any remuneration be deemed necessary; and concluded his report by stating, that, in his opinion, there was no more difficulty in finding heads of villages in Tanjore than in any other district, and that their not having been found had arisen from the Collector not having taken the steps calculated to ensure success to the measure.

184. The Judge in the zillah of south Malabar having stated that, in consequence of the town of Cochin and its dependencies having been reannexed to South Malabar, a district Moonsiff would be required to be stationed at Cochin, the Commissioners recommended to Government that the Judge should be authorized to entertain an additional district Moonsiff to be stationed at Cochin, which was acceded to.

185. The

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185. The Collector of the zillah of Canara transmitted to the Commission copy of a correspondence between him and the Board of Revenue, relative to the translating of the Regulations into the Canari and Hindowi languages, for the use of his districts. In submittting this correspondence for the information and orders of Government, the Commissioners observed, that it would be desirable that the Regulations should be translated into the Hindowi as well as the Canari languages, because the Hindowi was the general language of a few districts of Canara; but as this portion of the country was of small extent, in comparison with that in which Canari was the prevailing language, the Commissioners recommended that the Regulations should be translated into Canari by a translator to Government.

186. The Judge of Cuddapah having stated that some further enactments were necessary, in cases of the escape of prisoners or misdemeanors in the jail, the Commissioners observed, that they conceived the existing Regulations, at the date of the Judge's letter, were perfectly adequate to the ends in view, but that, should any difficulties be still supposed to remain on these points, they would be removed by the recent enactment of Regulation III. of 1817.

187. The late Magistrate at Chittoor having addressed Government on the subject of pensioning some of the late police Darogahs under him, the Commission were directed to state their sentiments on the subject. They observed, that though they were sensible that a good deal of inconvenience and distress must always follow every measure that throws a number of public servants out of employment, yet they did not think it would be advisable to consider this circumstance as giving such persons any claim to a pension from Government: that the police system was of too recent creation to entitle any of the Darogahs to a reward for long services: that no provision was made in the case of the many revenue servants who were thrown out of employment by the introduction of the permanent settlement, and that the adoption of a contrary principle, where services were not very long, would entail a heavy and endless expense, and often on account of persons who could either maintain themselves or did not deserve any provision: that though the Darogah establishment had been done away, the Collectors were not precluded from employing the late Darogahs in such revenue and police duties as they might think them qualified for.

188. The Judge at Cuddapah * entered into a comparison of the old and new Regulations, the evils likely to result to almost all classes, but more especially to the old and infirm, the illiterate, and the widow and orphan, from the district Moonsiff's not having a regular establishment of Vakeels; calculated the proportion of the male population likely to be every year assembled at district punchayets, and of individual labour and income which would be thereby lost; stated what might be lost to the public by judicial and revenue servants being summoned to attend punchayets, and detailed his sentiments in a variety of other cases.

189. The Commission, in their report on the Judge's objections,† to which they beg to refer, stated that many difficulties were looked to by Mr. Newnham which never could occur, and to which, therefore, it could hardly be necessary to say much in answer.

190. The Magistrate at Tinnevelly‡ having requested authority to build a Magistrate's office and jail at that station, the Commission, in their report to Government on the subject,§ observed, that any cutcherry which was large enough for the transaction of a Collector's revenue business was also sufficient for his magisterial duties; and, with respect to the jail which the Magistrate proposed to erect for the security of prisoners under examination, the Commission observed, that if such a building were necessary at the Magistrate's principal station, it would be equally necessary at the station of every Tehsil-

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* Letter from Mr. Secretary Hill, 30th December 1816, enclosing letter from the Judge at Cuddapah, dated 9th December 1816. † Letter to the Chief Secretary, 5th March 1817.
‡ From Mr. Secretary Hill, 24th February 1817. § To the Chief Secretary, 20th April 1817.

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dar, as they must all detain prisoners under examination: that the duties of the Collector obliged him to be absent from his head station, visiting the districts during a great part of the year, when he would, of course, confine prisoners under examination in such places as might be used by the Tehsildars of the different districts, which would be found sufficient.

191. From Tanjore Colonel Munro proceeded to Trichinopoly, Madura, Dindigul, and Coimbatore, to ascertain the condition of the village servants, but more particularly that of heads of villages. In these provinces he found prevailing every where the same general system of the village affairs being directed by a head cultivator, either Brahmin or Sooder. This man, however denominated, was the Potail, and the authority which he exercised so much the same, that the accounts of one district might answer for all the rest; but as his allowances and privileges varied considerably in different districts, Colonel Munro, in his report to Government,* stated what his situation was in each district, and gave a brief sketch of what the village system was under the native powers, until the Company's government, in all the countries south of the Caveri.

192. The First Commissioner observed, that the heads of villages are at present capable of carrying on all the duties required of them by the Regulations, but that they would do it better if their situations were rendered more fixed and independent, which would give them more weight and respectability in the country than they can possess where they are liable to removal at discretion. No general rate of allowances to the heads of villages would answer every where, as in some they are at present sufficient, in others too little, and in the same province more commonly both, and that it would, perhaps, be best to adopt different standards in different provinces, which in each might be regulated by ancient custom.

193. The First Commissioner, in the course of his circuit, every where endeavoured to ascertain how far the new system was agreeable or otherwise to the inhabitants, and stated his conviction that the change had produced general satisfaction.

194. The Magistrate of the zillah of Canara having urged the expediency of the transfer of that part of the bekul talook under the zillah court of North Malabar to the jurisdiction of the zillah court at Mangalore,† the Commission recommended to Government the adoption of the measure, which was accordingly acceded to.‡

195. On a proposition of the zillah Judge at Guntoor, to construct buildings for the Sudder Aumeens in that zillah,|| the Commission stated, that the same places where the Sudder Aumeens formerly held their cutcherries would still answer every purpose required, and that they deemed the disbursement for erecting additional buildings, proposed by Mr. Gregory, unnecessary.

196. The Magistrate of Canara having represented the inadequacy of his cutcherry to accommodate any part of the magisterial establishment,¶ the Commission were induced, on the ground of the absolute necessity of the measure, to recommend to Government that he might be authorized to make the addition proposed by him, not exceeding two hundred pagodas, which was approved by Government.**

197. As it appeared, from the reports of the local authorities of Malabar, that both its ancient institutions and the manners of its inhabitants differed widely from those which generally prevailed in the peninsula of India, and as the late Regulations, vesting certain powers in the heads of villages, were founded in the general usages of India, it was natural to suppose that, if any material objection occurred to their introduction, it would be found in Malabar. The First Commissioner, therefore, thought it advisable to proceed to that province from Coimbatore,†† in order that he might have an opportunity of examining

* Letter to the Chief Secretary, 26th May 1817. † Ditto, 20th June 1817. ‡ Letter from Mr. Secretary Hill, 26th July 1817. § Ditto, 19th June 1817. || Letter to the Chief Secretary, 25th June 1817. ¶ Ditto, 1st July 1817. ** Letter from Mr. Secretary Hill, 19th July 1817. †† Letter to the Chief Secretary, 4th July 1817.

examining on the spot whether the Regulations could, in every point, be introduced with advantage to the country, or if not, what alterations of them would be requisite for that purpose. The substance of the First Commissioner's report to Government was an abstract of the information which he received from those Nairs and other natives, who seemed to him to be the best informed with regard to the details of the village administration, ancient usages, and internal government of Malabar.

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198. The result of the First Commissioner's investigations satisfied him that in Malabar, the village establishment was so inadequate to the object of its institution, that it required a complete revision: that, under the Malabar Rajahs, their village system was well enough adapted to the ends of their military government: that under the Mysore Government, there was neither time nor tranquillity sufficient to complete a new one, but that whatever we have of useful was then introduced: that the terror of our arms and the progress of time had established tranquillity, but that we had made little improvement, and had rather retrograded than advanced in those arrangements which were most essential: that the approach made by the Mysore Government to a village establishment, in the appointment of village Parbutties, had since been rendered of no avail, by reducing the number of those officers, and converting them into a subordinate district establishment: that we had a superior district establishment under the Tehsildars or Sheristadars, as they were called in Malabar, and a huzzoor or provincial one under the Collector, in both of which the head native servants were too poorly paid to expect much good from them, and that with all those establishments, there were no means of obtaining and preserving correct detailed village accounts: that the double district establishment without a village one, served only to widen the distance between the Collector and the landholders, and to place every thing respecting their real condition out of his sight: that there was no ryotwar province in which he had so little communication with them, and where he ought to have so much. The First Commissioner, therefore, proposed to render the principal officers of the huzzoor and district cutcherries more respectable, by increased allowances, and to introduce a regular village establishment, for the particulars of which the Commission beg to refer to his report.

199. With respect to the village establishment, the report stated that the Regulations passed in 1816 require that there should be Curnums to perform particular duties, but that, had no such Regulations been passed, Curnums would still have been necessary for the security of the revenue: that, without them, there could be no system in revenue accounts, and no information entitled to any confidence as to the resources of the country: that the number of Curnums proposed would be fully adequate to the performance of every service required of them: that they would have more to do than in other districts, in registering the sales and various kinds of mortgages of lands, but much less labour in accounts, because the revenue being paid in money rents, and generally paid without any balance by a very large proportion of the landholders, the details would be much simpler and shorter than where rents were paid both in money and kind, and were regulated every year by the extent of land in cultivation; that the number of Kolkars proposed might appear insufficient, when the number of the inferior servants in other districts was adverted to, but that the customs of Malabar rendered the greater part of such servants unnecessary: that the great superiority of the Namboorees and Nairs to the other castes, and the long existence of military tenures, have established such an extraordinary degree of subordination among the different castes, and of deference from all to the chief of the village, that while it remained he would hardly require any servants, as every man in the village would obey his orders without hesitation: that the village servants should be paid in land rather than in money: that land conferred more respectability, and was regarded as more permanent: that a higher value was set upon it than upon a money allowance: that a good deal of land in Malabar had fallen into the hands of Government, by forfeiture and other means, and ought, as far as possible, to be allotted to the maintenance of village servants: that it could only partially be appropriated in this way at present, because it lay in large quantities, and is confined to particular villages, and can only be useful to the servant when it is situated in his

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his own village: that the unappropriated part of it might be gradually sold, and the price employed in the purchase of village service-land wherever it was wanted: that the village servants, where they did not receive land, ought to be paid by a remission of rent: that this would be more acceptable to them than a money allowance, both because it was more convenient and more respectable, and further, was not liable to be diminished by embezzlement, to which all money payments, particularly to so numerous a body of revenue servants, were always more or less exposed: that where the village servant paid no rent in which he could receive a remission, he must necessarily be paid in money.

200. The expense of the village establishment proposed by the first Commissioner would be as follows, estimating the land-rent and village taxes at Pagodas 5,00,000:

Heads of villages, one and a quarter per cent. of the above sum, Pagodas	6,250
Curnums or Menwas, two per cent..	10,000
Kolkars, three-quarters per cent..	3,750
Pagodas	20,000

The report stated, that as the application of these rates to every village would make the allowances to the servants in some villages too high and in others too low, it would be advisable to increase the rates in the small villages and to diminish them in the large ones, in proportion to the amount of revenue, according to a scale submitted by Colonel Munro: that the rate proposed for the heads of villages was low, compared to what was usual in other districts, but that, as in Malabar, they had in general lands of their own sufficient for their maintenance; and as they were fond of office, even where it conferred no advantage besides a little authority and distinction, the rate would be sufficient to answer the ends of inducing them to execute cheerfully the duties assigned to them, and of attaching them to the Company's government.

201. The First Commissioner observed, that the whole of the proposed charge would not be an addition to the present expense, as the parbutti, now called the village establishment, amounted annually to... Pagodas 17,810 7 16
That the proposed village establishment to be substituted for it was 20,000 0 0

Leaving only, as an additional expense, the difference............... 2,189 37 64

But that, as the reduction of the parbutti establishment would occasion an increase of that of the Tehsildars, the actual additional expense from the measure proposed would be about Pagodas 11,000; but that, were the whole sum of Pagodas 20,000 to be an extra charge, it ought not to prevent the immediate appointment of a village establishment, for, without it, there could be no correct knowledge of the state of the province and its resources, and there could neither be any efficient internal administration, nor that connection which ought to subsist between Government and the inhabitants. The First Commissioner, therefore, recommended the adoption of the measure.

202. The First Commissioner next took a survey of the huzzoor and district establishments of Malabar, which he considered to be totally inadequate to the purposes of their institution, and to require a complete reform. The report stated, that the main defects of this system were, the want of detailed accounts of the land revenue, and the customs, tobacco, and salt revenue being placed under officers independent both of the Tehsildars and the huzzoor Sheristadar: that the Sheristadar received hardly any accounts from these departments, and had no control over them; and that the agents entrusted with the management had, consequently, the same facility as formerly in Coimbatore, of committing the greatest abuses with very little danger of discovery. The reform which the first Commissioner recommended was the granting to the Sheristadar authority over every department in all its details, and providing the means of furnishing every account he might require, and he accordingly submitted estimates of the necessary establishment, drawn up with a view to this object.

203. Although no augmentation of the present custom establishment was deemed necessary, the First Commissioner disapproved of the manner of conducting

ducting its duties, and suggested a different system, by placing them under the control and authority of the district cutcherry and the Collector's Sheristadar.

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204. The same observation equally applied to the management of the salt revenue, the department entrusted with it being independent both of the district cutcherry and the Collector's Sheristadar, and the First Commissioner recommended its being placed under both. The report stated, that the principal sources of the complaints preferred to the First Commissioner, while in Malabar, arose from the tobacco and salt monopolies and the land-rent: that, first, with regard to the tobacco, the grievances complained of were merely of that general nature, which must always be felt when the price of any article of general consumption was greatly enhanced by monopoly: that the commodity was not a necessary of life, and that there was no other way by which an equal revenue could be raised with equal ease to the inhabitants: that, secondly, with regard to the salt, the inhabitants in general of Malabar were not more affected than those of other provinces by the monopoly price, but that the dealers complained of the measurement at the depôts, and the land-owners who made salt on their lands, both of the measurement and of the prohibition of the manufacture.

205. The First Commissioner entered into the details of embezzlements in the salt revenue by measurement and wastage, and also from paying more for foreign salt than the actual purchase-price, amounting annually, during a period of five years, to Star Pagodas 21,137 44 15. This result, the First Commissioner observed, was not drawn altogether from actual accounts, but partly from estimates of surplus measurement and wastage, and prices paid to the importers by the brokers; but that those estimates, he believed, were rather underrated than otherwise. On the importation of foreign salt, he observed that it had almost supplanted the home manufacture, and occasioned general discontent: that the fact of a salt revenue greater than that of Malabar being realized in Canara, without any importation, was sufficient to prove that it was not absolutely necessary, even for the sake of revenue, to suppress the home manufacture.

206. The report observed, that the next subject of complaint was the assessment of gardens and rice-lands, by which was not meant any general inequality of assessment, but the continuance of the original assessment on gardens and rice-lands, which had been so much deteriorated from various causes, that the produce was no longer equal to the discharge of the rent. The First Commissioner suggested the means by which those complaints might be redressed, which would not only secure the revenue, but obviate, in a great degree, the necessity of selling lands for arrears, the practice of which being now generally introduced, was received with general dissatisfaction: that this remedy might be proper among zemindarries and great estates, but was otherwise among innumerable small properties, as in Malabar, where the land owner and the cultivator were very commonly united in the same person; and that the same means should be adopted, both for the security of the land-owner and of the revenue, as were customary in well regulated ryotwarry districts.

207. The Commissioners having been desired to report * whether it would not, in their opinion, serve to promote the views of the Honourable Court of Directors, and prove a salutary arrangement, to give primary jurisdiction to Collectors in all matters falling within the provisions of the pottah, the distraint and the boundary Regulations of 1802; the Commission stated,† that it would be a measure highly beneficial to the country, and they prepared and submitted to Government drafts of two Regulations embracing all the points adverted to, and providing for carrying into effect the views of the Honourable Court of Directors.

208. The Commissioners took the liberty of observing, that though Regulation XII. of 1816 extends to only a few of the heads noticed in Mr. Hill's letter, it could not have been made more comprehensive, consistently with the eighteenth Resolution of Government of the 1st of March 1815, which limited the jurisdiction of the Collector to the settlement of boundary disputes on the verdict

* Letter from Mr. Secretary Hill, 2d April 1817.
† Letter to the Chief Secretary, 15th July 1817.

Mr. Stratton's Report, 21 March 1818.

verdict of a punchayet, or with the instructions conveyed in Mr. Secretary Hill's letter of the 25th of May 1816, directing the Commission to frame Regulation XII. 1816, in conformity to the Honourable Court's orders of the 20th December 1815, which limited the authority of the Collector to the referring of disputes respecting the occupying, cultivating, and irrigating of land, between proprietors or renters and their Ryots, to be tried and determined by punchayets. The Commission further observed, that the preparation of Regulations for the enforcement of the rules respecting pottahs and distraints, recommended in the Court's letter of the 29th April 1814, was not referred to the Commission but to the Board of Revenue, by the seventeenth Resolution of Government of the 1st of March 1815.

209. As the subject of pottahs is connected with that of distraint, the Commission thought that it would be most convenient to insert whatever related to both in one draft, and to comprise what regarded boundary disputes in a separate draft; and as it appeared to them that, under the existing laws, the Zemindars possessed all the means of realizing their dues from the Cultivators required by the Honourable Court, the Commission endeavoured in the drafts to fulfil the other part of the Court's orders, of affording protection to the cultivators from the exactions of the Zemindars.

210. The Commissioners took a view of the provisions of those drafts, and made such remarks as seemed necessary, where it was proposed to modify or rescind the law, and observed that, when those drafts should have been passed by Government, the Collector would have jurisdiction in almost every case of public revenue as well as of rent between individuals, and that he would thereby have the means of not only securing the revenue from loss more readily than at present, but of promoting the ease of the inhabitants, by the speedy adjustment of their suits, while at the same time an appeal in every case lying open to the zillah court, would guard them against every act of oppression.

211. The Magistrates of the zillahs of Tanjore and Tinnevelly having forwarded to the Commissioners the police establishments which they deemed necessary for their respective zillahs, the Commission submitted them for the sanction of Government, for the present* observing that, when further experience should have shewn how far an union of the police and revenue establishments would admit of reductions being effected without injury to their efficiency, they could be hereafter made by a revision of the whole.

212. The Commission also submitted a district establishment proposed to them by the late Collector in Malabar, and observed, that as the First Commissioner had recently submitted to Government a report on the inefficiency of the revenue establishments of Malabar, and proposed an enlarged one, they thought that no final arrangement could be made, until Government should have determined how far the revenue establishment proposed by the First Commissioner should be adopted.

213. Some of the magisterial servants having been retained by the Judges, it became necessary to authorize the Collectors to entertain others of the same description. A copy of the Commissioners' correspondence on this subject with the several Collectors was submitted for the information of Government, to shew that they had endeavoured to keep the establishments on the lowest possible scale consistent with their efficiency. The Commissioners further stated, that from the incomplete returns which they had received, there was, by the transfer of the police to the Collectors, a net annual decrease of expense, amounting to about 30,000 Star Pagodas, exclusive of the zillahs of Madura and Coimbatore; but that no just comparison could be made under a partial revision, as not only some of the police servants retained by the Judges might be reduced, but also a part of the establishment employed in the civil administration of justice.

214. The Judge of Chittoor represented to Government the necessity of an increase to his establishment of four English writers, on the ground that there would be full employment in future for the Judge, Assistant Judge, and Register,

* Letter to the Chief Secretary, 21st July 1817.

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gister, under the operation of the new laws. This proposition being referred to the Commission, for their consideration and report, they showed, by a comparison of the number of causes disposed of in 1816 and 1817, in the Chittoor zillah, that the business before the European authorities had decreased about one-half, and increased before the native judicatories in the proportion of about one-third. Under these circumstances, the Commission deemed the addition of English writers proposed by Mr. Wright unnecessary, and they took occasion again to submit the expediency of abolishing the office of Assistant Judge.

215. The Assistant Collector in charge of the Tanjore zillah having been directed to report on the progress made in the introduction of the new system, his reply was sent to the Commission for their consideration. He stated that two things were wanting, in order to render the village Moonsiff system in any degree efficient in Tanjore.

The first was, an extension of the provisions of Regulation IV. 1816, so as to authorize Collectors to nominate, in certain cases, the proprietors of villages, though non-resident, to act as head inhabitants of such villages, and to appoint in villages where there was no head inhabitant connected with agriculture, a Kashagoodee, to act in that capacity. The second was, the exemption of the head inhabitants of villages from contributing to the police establishment.

216. The Commission stated, in reply, that these subjects had been brought to the notice of Government by the First Commissioner, in his report of the 8th February last, and they recommended that they might be allowed to provide, by a supplementary Regulation, for whatever might be necessary to render the village system more complete. They also recommended, that the Tanjore heads of villages should be exempted from the house-tax imposed for the support of the police establishment; and that should any other house-tax exist, from it likewise.

The Commission further recommended, that the Collector should be required to prepare statements of the amount of remission of taxes which has been granted to the heads of villages, and other Meerassadars of Tanjore, since the commencement of the Company's Government, and likewise of the amount of allowances formerly received under the Rajah's government, by the Natumkar or head of the village, from the Meerassadars, as those statements would show whether the heads of villages in Tanjore did not actually enjoy remissions equivalent to the allowances granted to those in Coimbatore, or if they did not, whether the deficiency ought to be made up by an assessment on the Meerassadars, or by Government.

217. The zillah Judge at Vizagapatam having represented to the Sudder Adawlut the irregularity of the village Moonsiffs, in not furnishing returns of causes decided by them, the Judge's letter and the Sudder Adawlut's proceedings thereon were forwarded to the Commissioners for their consideration and report.

218. The Commission stated, that as the Regulations came to be better understood, more regularity would be in future observed by the village Moonsiffs in making the prescribed returns; and that, should Government be of opinion that some penalties were necessary to enforce their transmission, the Commissioner stated that such penalties should attach to the Curnums, and that a clause to this effect should be inserted in a supplementary Regulation.

219. The zillah Judge of South Malabar represented to the Commission the necessity of an additional district Moonsiff in his zillah, in consequence of the arrears of unsettled suits rapidly increasing. The Commissioners brought this circumstance to the notice of Government, and stated that the most effectual remedy for the evil complained of would be the employing of village Moonsiffs, who would relieve the district Moonsiffs from a great number of petty suits; and they suggested, that orders should be issued for carrying into effect the arrangement regarding village Moonsiffs recommended by the First Commissioner, in his report of the 4th July 1817, and that, as some months must elapse before the system of village Moonsiffs could be brought into

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into operation, that the zillah Judge should be authorized to appoint an additional district Moonsiff.

220. The Government were pleased, in consequence, to direct the Board of Revenue to entertain the establishment of revenue servants in Malabar recommended by the First Commissioner, and sanctioned the zillah Judge of South Malabar, employing an additional district Moonsiff.

221. Petitions from two of the late police Darogahs of the Chingleput zillah, soliciting pensions, having been referred to the Commission for their report, on the ground that they held the office on high pay, as a compensation for the loss of privileges and emoluments to which they possessed a hereditary title, the Commission stated that the first petitioner, by his own statement, had been raised from the situation of a common Peon to be a police Darogah, and that consequently he had no claim on Government for the loss of former privileges and emoluments, and that the other petitioner was already better provided for than many discharged police Darogahs, by the possession of a village on Shotrium tenure.

222. In submitting a statement of the estimated and actual charges of the Magistrate and Police establishments, from the 1st November 1816 to the 12th July 1817, in the zillah of Tinnevelly, the Commission brought to the notice of Government that the actual charges proved Pagodas 293 19 14 below the estimate they had submitted for the sanction of Government on the 21st July last; and they further observed, that Mr. Cotton's proposed establishment for the current fusily exhibited a decrease of Pagodas 129 below the annual pay of the last proposed establishment: and the Commission stated their conviction, that when the advantages to be derived by the union of the police and revenue establishments should be better appreciated by experience, further reductions of both establishments might yet be expected.

223. A statement of the actual disbursements in the Police department in the zillah of Bellary, from the 16th November 1816 to the 12th July last, having been referred to the Commissioners for their report, the Commission observed, that no reduction of expense had occurred in that zillah from the Collector's Tehsildars having always acted as police Darogahs, and from there being no Thanadars, both of which offices were abolished by Section 3, Regulation XI. 1816: that they, however, thought that Mr. Chaplin's police establishment would admit of some reduction when the state of public affairs might render the measure expedient.

224. The general question which arose, regarding the claims of Thanadars who had been recently thrown out of employ, having been referred to the Commission for their consideration and report, the Commissioners observed, that the Collectors were not precluded from employing the Thanadars and police Peons who had been recently dismissed, and that, considering the large body of men who were employed under the judicial, revenue, and police authorities, they were of opinion that, if casualties and vacancies were filled up by the dismissed police servants, that all those who were distinguished for good conduct would gradually find employment.

225. The Magistrate in the zillah of Madura having applied for permission to entertain some additional servants, the Commission brought his request to the notice of Government, and shewed that, allowing for the expense of the additional servants required, there was still, by the dismission of the police Darogahs and Thanadars, a reduction of expense in the Madura zillah, by the transfer of the police to the Collector, amounting to Pagodas 124½ per mensem.

226. Some papers relative to the police establishment in the zillah of Coimbatore having been referred to the Commission for their consideration and report, the Commission attentively examined the statements referred to in Mr. Thackeray's address, and had the satisfaction to bring to the notice of Government, that the police establishment proposed by Mr. Thackeray for the Coimbatore zillah was Pagodas 193 23 40 per mensem below the former police establishment, after allowing for the transfer of some servants from the custom and tobacco departments to the police, by which the pay of those servants would be a saving to both those departments.

227. The

Mr. Stratton's Report, 21 March 1818.

227. The Commission prepared and submitted, for the information of the Right Honourable the Governor in Council, two general abstract statements, shewing the number of original causes and appeals decided in the several zillah courts and by the several native tribunals, between the 1st January and 30th September 1816, and the 1st January and the 30th September 1817. This comparison exhibits a diminution in the latter period, in the number of original suits and appeals decided by the European authorities, amounting to 1,932, and an increase in the same period in the number of original suits and appeals decided by the several native tribunals, amounting to 21,021. The Commissioners observed, that although they never entertained the least doubt of the ultimate success of the new system, yet they were not prepared to expect so favourable a result in so short a period: that as out of 7,423 causes decided by village Moonsiffs in nine months, only three appeals were pending, it could hardly be doubted but that the inhabitants are satisfied with their decisions, and that, much as punchayets may of late years have fallen into disuse, not a single decision by them had been reversed: that although the village Moonsiffs have done but little in some zillahs, and nothing in others, that still a comparison of nine months of the two years, 1816–17, shewed "how disproportioned "the means of judicial administration under the late system were to the wants "and necessities of the people."

228. The Commission also remarked, that the new system had already enabled them, on former occasions, to recommend the abolition of the office of Assistant Judge, and that, should the Government deem it expedient, from the great decrease of business before the Judges by the transfer of the magisterial duties to the Collectors, to make any reduction in the number of the zillah courts, they should be ready, whenever required, to state the manner in which the reduction should be made.

(Signed) GEORGE STRATTON,
Commissioner.

SECRETARY *to* BENGAL GOVERNMENT *to* SECRETARY *to* MADRAS GOVERNMENT,
Dated the 19*th May* 1818.

To D. Hill, Esq. Secretary to Government at Fort St. George.

Sir:

Letter from Bengal Government, 19 May 1818.

I am directed by the Honourable the Vice-President in Council to acknowledge the receipt of a letter from you, dated the 24th ultimo, with the documents alluded to in it, and to acquaint you, for the information of the Right Honourable the Governor in Council, that the local Government have thought it expedient to suspend the consideration of the papers above mentioned, until they shall have before them the reports from the Sudder Adawlut and Board of Revenue, alluded to in the last part of your letter, and which it will be satisfactory to receive at as early a period as may be practicable.

I have, &c.
(Signed) W. B. BAYLEY,
Acting Chief Secretary to Government.

Fort William, 19th May 1818.

SECRETARY *to* MADRAS GOVERNMENT *to* SECRETARY *to* BENGAL GOVERNMENT,
Dated the 8*th December* 1818.

To W. B. Bayley, Esq. Secretary to the Government, Fort William.

Sir:

Letter to Bengal Government, 8 Dec. 1818.

I am directed by the Right Honourable the Governor in Council to request, that you will lay before the Most Noble the Governor General in Council the accompanying copies of the reports which have been prepared by the

Letter to Bengal Government, 8 Dec. 1818.

the Sudder Adawlut and by the Board of Revenue respectively, on the revised judicial system, in consequence of your letter of the 18th November 1817. The Governor in Council also transmits a copy of a report on the same subject, which has been prepared by the late Commissioners for revising the Judicial system, since the return of Colonel Munro from the military operations in which he had been engaged. The Governor in Council does not consider it necessary to delay the transmission of those papers, for the purpose of communicating along with them that review of the recent changes in the system of internal administration for this presidency, which he proposes, at as early a period as may be practicable, to lay before the Honourable Court of Directors.

I have, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 8th December 1818.

REPORT *of the* BOARD *of* REVENUE,
Dated the 31*st August* 1818.

Report of Board of Revenue, 31 Aug. 1818.

Par. 1. THE orders of the Governor in Council, under date the 1st May last, required the Board to furnish the Governor in Council with information on such of the points stated in the letter from the Supreme Government, of the 18th November 1817, as might fall under the Board's "official cognizance," and the orders of the Governor in Council of the 16th, received on the 24th June following, desired that the information called for might be furnished without delay, and directed that the Board should state within what period their report might be expected to be laid before Government.

2. The Board, on the 29th June, reported that they had found it necessary to apply to the Collectors for information on some of the points noticed in the letter from the Supreme Government, but they named the 31st August as the period within which they expected to be able to furnish their report. They accordingly now proceed to take into consideration the replies received from the several Collectors to the circular letter of the Board, under date the 17th June.

3. It appears that the Collectors of Nellore, Coimbatore, and the head Assistant in charge of Bellary, are of opinion that the duties of Magistrate do not materially interfere with their revenue duties; but Mr. Fraser qualifies this opinion by observing, "I refrain from interference, unless where the affair "appears of such importance as to require my own immediate investigation, "or when there is any doubt, on which latter occasion directions are given, "because I consider this to be the intention of the system lately introduced, "and that investigation in the first instance by an European, on occasions "where there must be one and may be two other ordeals, superintended by a "Judge, is in general unnecessary, and may sometimes do harm, by enabling "delinquents to have more opportunity for escape through corrupt means."

Mr. Sullivan observes: "when I discharged the duties of Magistrate myself, "I did not find that they interfered in the smallest degree with the revenue "duties; neither did Mr. Thackeray. They occupy, perhaps, one hour a day, "on an average of the year."

Mr. Nisbett observes: "In the first part of this period I did not find that "the additional charge impeded in any degree the performance of my other "labours, as it seldom occupied me above two hours a day; on the contrary, "I am of opinion that the new arrangement accelerated business, by giving "greater weight both to my own and the Amildar's orders, in matters con-"nected with revenue. The latter, too, I have reason to think, exercised "more vigilance, and were more zealous in the detection of crimes, from a "wish to ingratiate themselves in the quarter where their private interests were "immediately concerned than under the zillah court."

4. The

Report of Board of Revenue 31 Aug. 1818.

4. The Collectors of Malabar, Salem, Guntoor, and Ganjam, have not given decided opinions.

Mr. Hargrave observes: "At particular times I have certainly found the "discharge of my police and magisterial functions interfere with my revenue "duties, and at the present moment I am obliged to let my assistant conduct "the investigation of all crimes, disputes, &c. though I retain the management "of the police in my own hands."

Mr. Vaughan states: "The police duties were generally found tolerably "light, and did not interfere too much with our revenue duties in general, "particularly during three circuits, in consequence of the Judges then on cir- "cuit expressing no dissatisfaction at the mode of transacting our business. "A difference of opinion, however, between the Third Judge of circuit and "myself having occurred, the matter was referred for the decision of the Court "of Sudder Adawlut, which was given in favour of the Third Judge, accord- "ing to his interpretation, though not so decidedly, in my opinion, as he "conceived."

Mr. Oakes states: "When, as at present is the case, I have to perform the "entire duties of magistrate, I am under the necessity of holding my cutchery "from six o'clock in the morning till eight, and again from ten to three; "after which the native establishment remains in office until six o'clock in the "evening, when the orders given during the day are read and signed."

Mr. Cazalett observes: "There is not, however, so much Magistrate's busi- "ness in the district as to prevent the Assistant, although superintending this "department, from proving himself most aiding towards the discharge of the "revenue duties." He adds: "The discharge of the functions of Magistrate, "as at present they are required to be performed without the aid of an "Assistant, might interfere with the revenue duties. The great niceties which "the Regulations require to be observed in all proceedings, and the strictness "with which these are enforced by the court of circuit, I find, from late "experience, render it necessary for the Magistrate personally to look to the "correctness of every paper." With reference to the scrupulous niceties and attention to forms, Mr. Cazalet further observes, that "his remarks apply "with equal and greater force to the heads of police (natives), who in their "proceedings are directed to observe so many forms, and such exactness in all "investigations, that the duty becomes very severe; for the result of all this "is, that either the head of the police will neglect his revenue duties, to enable "him to attend to these augmented and increasing particulars of police detail, "or, what is much more likely to be the case, he will refrain from taking notice "of many offenders, from the difficulty of finding time personally to take and "prepare the several examinations and forms of proceedings, with the exactness "and great precision required by the circuit court."

5. The Collectors of Rajahmundry, North Arcot, Chingleput, Trichinopoly, Madura, Tinnevelly, Tanjore, Guntoor, Masulipatam, Vizagapatam, and Canara, are of opinion, that the discharge of the duties of Magistrate, when performed by them in addition to their revenue duties, materially interfere with the due discharge of the duties of the revenue department.

Mr. Smalley observes: "To answer the subject generally, I should say that, "at present, the Collector has not leisure to attend properly to both the revenue "and magisterial duties of this district; but whenever the land revenue shall "be again collected from a few Zemindars, he certainly might, with one "Assistant, execute fully both offices."

Mr. Cook observes; "From the temporary absence of the assistants, the "magisterial department has occasionally devolved wholly on the Collector; "in replying, therefore, to the third paragraph of your Secretary's letter, I have "no hesitation in stating, that I consider the extensive and laborious duties of "the joint situations such as cannot be performed, either with satisfaction to "the individual or to the interest of the public service.

Mr. Lushington observes: "With respect to the third query, I have certainly "found the office of Magistrate, as now constituted, to interfere materially

"with

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" with my revenue duties. In fact, when it is considered how many important " duties are vested in a Collector of an unsettled district, the constant vigilance " which is requisite to restrain the revenue officers from abusing their trusts, " I think it impossible that any extensive duties, like those of Magistrate, can " be imposed upon him, without causing him to neglect his office of Collector;" but he adds, " since the transfer of the magisterial department, I have, how- " ever, been led to the following conclusion, viz. that considerable public good " would result from allowing magisterial powers to remain with the Collector, " even in the event of the office of Magistrate being again transferred to the " zillah Judge;" and again, " the result therefore of my experience, since the " transfer, is this, that the office of Magistrate, as now constituted, is too great " an addition of duty to the office of Collector: that the office might be ren- " dered more efficient if exercised by the zillah Judge and Collector conjointly, " and that, should it be deemed expedient to continue the office as at present " established, the aid of additional European assistants to a considerable extent " is absolutely required."

Mr. Cotton states: " I have the honour to inform you, that besides holding " a general superintendence as Magistrate, I find it quite impossible, with my " revenue duties to perform, to give my attention to any of the detailed duties " in that office."

Mr. Peter states: " In May the duties of Magistrate were performed by my " head Assistant, Mr. Drury: from June to November they were discharged " chiefly by myself, owing to Mr. Drury having been nominated Commissioner " to investigate the claims of the Travancorians to the Cardamum Hills, and to " his absence on leave to the presidency; from November to January they " were performed by Mr. French; and from January to April both by Mr. " Drury and Mr. French, who have likewise had charge of the sayer depart- " ment and some Talooks. When the whole of the duties of Magistrate " devolved upon me, before I was joined by my second Assistant, Mr. French, " I found the discharge of them interfere very materially with the discharge " of the duties of a revenue nature; and I certainly think a Collector cannot " perform both duties satisfactorily to himself, without the aid of an " Assistant."

Mr. Harris states: " On the third and last point I am not clear as to its " exact purport. If, as Collector, I am to discharge both revenue and police " duties, I have no hesitation in submitting it as utterly impossible. Even with " the aid of Mr. Cameron's zealous assistance, and the unremitting labour of " myself, I have no hesitation in stating that I consider the overwhelming " business of this zillah inadequately attended to. It is not for me to submit " in this place to the Board how that business has been conducted: their ap- " probation I have had the honour to gain. In the police I have, I hope, de- " served the favour of Government. Hence I might agree, that my Assistant " and myself are adequate to the duties of both departments, from the satis- " factory manner in which they have been performed. I have, however, little " doubt that, with the assistance of another efficient European officer, every " duty might be got through, to the greater satisfaction of Government, your " Board, and to the interests of the people at large."

Mr. Russell states: " The far greater portion of the Magistrate's business " has been performed by the head Assistant Collector, Mr. Robertson; and " had it not been for the able and unwearied assistance which I have received " from that gentleman, in the revenue as well as magisterial departments, the " various duties of my double office could not possibly have been executed with " any degree of regularity. In conclusion, I have no hesitation in declaring " that more European assistance is necessary to the efficient discharge of the " business of this collectorate."

Mr. Smith states: " When I received charge of the magistracy, I had no " records or servants handed over to me by the criminal Judge; and as I " never had experience in the Judicial department, it was natural enough I " should feel much at a loss when required to perform duties to which my " Assistant and myself were strangers. These causes, and the ignorance of " the police Aumeens or Tehsildars in the zillah, produced much unnecessary

" trouble,

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" trouble, which was greatly increased in consequence of the numerous petitions
" preferred by the Zemindar of Boobellie and his adherents, who, as usual, were
" found engaged in the grossest practices against the peace of their neighbours
" and of Government. The result has been, that from November last until
" now, that part of the duties of Magistrate which I discharge occupy more of
" my time than all my other duties in the aggregate. Measures, however,
" have been recently taken, founded on past experience, which it is expected
" will enable me to perform that portion of the Magistrate's functions I have
" not delegated to my Assistant, without interfering with those in the Revenue
" department."

Mr. Hepburn observes: " From the 1st May till the end of September last
" year, the duties of Magistrate were entirely performed by my Assistant, hav-
" ing been called away myself from my district at that period. Since then
" they have been executed both by myself and him, till about a month ago,
" when he went off upon leave of absence, since when the whole business has
" fallen upon me again. During the whole of that period my Assistant has
" been much more a judicial than a revenue officer, the duty of Magistrate
" having not only occupied nearly his whole time, but every hour I could spare
" myself from my own proper revenue duties, which have been frequently in
" the course of that time broken in upon, by calls of so pressing a nature from
" the magisterial department, that they could not be neglected. From the un-
" equal demands upon the Collector's time which accompanies the performance
" of revenue duties, I have no hesitation in saying, from the experience that
" has already been had of the present system, that I have found it does at times
" most materially interfere with the Collector's proper duties, which at parti-
" cular periods of the year are such as to afford me full employment for all my
" time in conducting the revenue details. I have never, however, had more
" than one Assistant at a time. From the forms and details prescribed, I also
" find that it requires so constant an attendance in office, as greatly to encroach
" upon that personal inspection and superintendence of the public works of
" irrigation, which in this district forms so important a branch of the Collec-
" tor's duty; and that a few days absence from his office upon other branches
" of the service, entails an arrear of business upon him which requires consi-
" derable efforts to clear off. At such times, therefore, an accession of Euro-
" pean assistance is required; but if the Collector's duties are such as occa-
" sionally to occupy his whole attention, the Assistants will, at such times,
" become in fact the executive Magistrates in the country."

Mr. Hanbury observes: " The duties of Magistrate in this district are, I fancy,
" as laborious as in any district under this Government, and more so than in
" many. When the whole of the duty has been undertaken by me, I have
" frequently found it more than I could satisfactorily discharge; and however
" heavy the duty may now be, it will be most considerably increased if the
" Magistrate shall be compelled to furnish translates, both of his proceedings
" and of those of the district police, in those cases which, from his limited
" power of punishment, he finds it constantly necessary to forward to the cri-
" minal Judge, commonly one or two each day, sometimes more, seldom less,
" and the papers in each of these cases would frequently, with close diligence,
" uninterrupted by any other duty, occupy a week to translate."

6. The Board, in their proceedings under date the 18th December 1815, stated, that when the Committee appointed in 1806 to revise the existing system of local police recommended that Collectors should be appointed Magistrates, it was considered a rule prescribed by the highest authority, that all annual or other periodical settlements of the revenue were to cease, and that a permanent zemindarry settlement was to be made, either with existing Rajahs, Zemindars, and Poligars, or with other persons to be created proprietors of estates formed of many villages. The recent orders of the Honourable Court of Directors have abrogated this plan of collecting the land revenue, and have directed that the settlements shall be annual, that they shall be made with each cultivator, and that each field shall be assessed with a permanent assessment in money.*

* For the amount of Revenue settled permanently, see Minute of the Board of the 5th January 1818, paragraph 125, about twenty-nine lacs of Pagodas.

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7. Considerable progress had been made in the permanent zemindarry settlement previously to the receipt of these orders: several of the zemindarries and estates permanently settled have, however, subsequently reverted to Government, and are now under the immediate superintendence of the Collectors. The proceedings of the Board, of the 5th January last, shew further, that in the other provinces settled on the Ryotwar plan, the classification of the soil, and the money assessment fixed thereon, have been found to be so defective, that is, so unequal and so high, that the field assessments intended to be permanent require in most cases to be reformed.

8. The existing decennial village settlements will all expire within the next three or four years. Further, the revenue of many extensive provinces, in which neither the permanent zemindarry settlement by estates, nor the permanent ryotwar field money assessment has been established, will become payable in kind,* according to local usage, unless intermediately commuted for a money assessment. This mode of management must also be resorted to in all mootahs and zemindarries hereafter resumed or under attachment.

9. The Governor in Council has recently had under consideration the proceedings of the Coimbatore Commissioners, appointed to investigate the extensive abuses and frauds committed by the native revenue servants in that province.† The proceedings of the Committee appointed in 1804 to investigate the embezzlement and frauds committed in the years that the land revenue of Tanjore was received in kind, is fresh in the remembrance of the Board,‡ and it is to be regretted that their records afford numerous more recent instances of detected embezzlements, fraud, extortion, and corruption, on the part of the native servants entrusted with the settlement and collection of the various branches of the public revenue, and on the part of the head inhabitants in connivance with the servants. The extensive powers which must be committed to the native servants, to be employed in conducting the measurement, classification, and assessment of the land, preparatory to the general commutation of the public revenue, now due in kind, for a payment in money, and for revising the existing rates of the money assessments fixed by survey, must satisfy the Governor in Council that the native servants, who are to assess the land according to the instructions framed by Colonel Munro, § will require to be vigilantly and constantly watched, or that they will commit great abuses.

10. The

* The Revenue payable in kind, from the province of Tanjore only, may be reckoned at six and a half millions of bushels of rice in the husk, or 40,000 m. garce.

† Letter from Government to the Board of Revenue, dated the 22d September 1804.

‡ The amount peculated by the head or other inhabitants and the native servants, was estimated by the Committee to be, for three years, Pagodas 2,07,800, or Rupees 7,27,300, see paragraph 33 of Committee's Report to the Governor in Council, dated 31st July 1804, and paragraph 56.

56. The avowal of guilt made by the Maylioor Meerassadars before the Committee, and their formal denial of it before the Collector when brought forward by Trivungadatayengar, attracted the attention of the Committee, and led them to question the Meerassadars on their inconsistency. They allowed that the declaration which they had in the first instance delivered to Trivungadatayengar, relative to the embezzlement in their village, was true, and that they came to the head cutcherry with a full determination to confirm it before the Collector. That on their arrival at Combaconum they were sent for to the house of a person named Ramasawmy Pillay, principal Meerassadar of their talook, where they met two persons, one belonging to Appoviah, the accused Tehsildar, and the other to Ramachender Row, the Peshcar of the head cutcherry. These people, on the part of their masters, and in conjunction with the head Meerassadar, pointed out to them the disgrace of the Sirkar servants, and the ruin of the Meerassadars of the province, as the inevitable consequences of their declaring to the Collector the embezzlement Appoviah had made on their village. They stated, particularly, the wish of the head Peshcar, that they should deny before the Collector the truth of the accounts which they had given to Trivungadatayengar, and pointed out to them, as a corroboration of the Peshcar's wish, the circumstance of his having sent his own confidential man to communicate with them. To persuasions of this nature was added promises of indulgence from the Tehsildar. The Meerassadars of Maylioor (to use their own words), "believing in the promises of their advisers, and fearful of incurring the resentment of so "many people, united to conceal the truth," denied before the Collector the whole of the statement which they had given under their signatures to Trivungadatayengar.

The foregoing declaration of the Meerassadars given to the Committee, was confirmed in all its material points by Annacoody Ramasawmy Pillay, the principal Meerassadar of Cottalum, and Appoviah, late Tehsildar of that talook. See paragraph 56 of the Report.

§ See instructions to surveyors, assessors, and revisers of surveys of assessments, page 787 of the Appendix to the Fifth Report of the House of Commons.

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10. The frauds recently brought to light in the salt department, under the Collectors of Guntoor and Nellore, and the great increase of revenue which has subsequently been obtained in both collectorships in this branch of revenue, * evince the constant viligance required to prevent the repetition of such frauds.

11. The statement of Mr. Chaplin, the late Collector in Bellary, † that he considers a sum of forty thousand pagodas, ‡ or about half the amount of the revenue now derived from Sayer, to be annually peculated by the servants of his district in that department; and his description of the progress of a native Collector of Sayer, in obtaining money by improper means, will show the time and attention required to manage successfully this branch of revenue. Mr. Chaplin observes: "On the subject of the customs, generally, I have " but few observations to submit to the Board. Notwithstanding that the " revenue has improved of late years, this branch of it forms a perfect sink of " fraud and corruption, which seems quite unfathomable. However perfect " the Regulations may be, they seem to me to be quite insufficient to guard " against the combined artifices of merchants and Sayer servants to defraud the " Government. No sooner is one check upon embezzlement and smuggling " established, than another mode of evasion is invented, and the accounts of " the department are so intricate and multifarious, that it is scarcely possible " satisfactorily to trace the clue of frauds through the various mazes in which " they are involved. This difficulty of proving malversation is the great " stumbling-block in the way of all inquiry: great facilities are consequently " afforded to the Sayer servants of appropriating the collections. A needy " Brahmin, destitute of the means of subsistence, appointed on a salary of " three canteray pagodas per mensem to a chowky of any magnitude, im- " mediately begins to live on a comparatively grand scale, celebrates two or " three weddings for himself and his relatives in the course of the year, gives " expensive entertainments, provides his wife with costly ornaments, and not " unfrequently has a Gomashta in his own pay, to assist him in conducting the " business of the chowky. It is sufficiently obvious whence he derives the " means to supply these disbursements: they are obtained, of course, at the " Sirkar expense. The ways and means of defrauding the revenue are " various."

12. The Board of Revenue are compelled to record their conviction, that Sayer servants are not the only class of native servants in the Revenue department to whom the foregoing description is applicable. The recent roguery of the Tehsildar, whose treasury was plundered by the Pindarries, is a further proof of the want of integrity and principle in the native revenue officers in all departments. Indeed, Mr. Chaplin's description will apply to most native servants; but it is true that the opportunities for committing fraud, although great in most branches of the revenue, are particularly so in the department of Sayer or inland customs.

13. The Abkarry department, for the exclusive sale of spirituous liquors, now yields a considerable annual revenue; but it is far from having arrived at that state of improvement of which it is susceptible, either as regards the amount of revenue, the mode of collection, or the morals of the people. Any spare

*	Gross Revenue, 1817.			Gross Revenue, 1818.		
	S. Pags.	F.	C.	S. Pags.	F.	C.
January	22,486	19	62	33,015	28	46
February	22,683	6	49	46,573	31	42
March	15,850	40	47	23,635	11	19
April	14,252	20	0	27,508	27	8
May	10,344	38	11	29,041	10	17
June	5,585	32	12	12,450	38	1
11th July	3,143	40	13	4,463	9	2

† Letter from Mr. Chaplin, 27th October, in Consultations 18th November 1817.

‡ Par. 8. "I am sure that if the full extent of the Sirkar dues were realized in the custom department, they would add forty thousand pagodas to the government income in this single zillah."

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spare time and attention that Collectors could bestow, might be usefully employed in planning and executing improvements in this branch of revenue.

14. The money annually expended in the repair of tanks and watercourses, and the execution of other works of public utility now superintended by Collectors, has amounted annually, on an average of ten years, to Star Pagodas 1,16,676, or Rupees 4,08,366.* The report of the Coimbatore Commissioners details the extent to which abuses can be practised in this department of the public expenditure under a lax superintendence, and this is not, the Board regret to say, a solitary instance of fraud committed by natives in the disbursement of money in the execution of public works. In most of the districts under a permanent settlement, the repairs are not now made to any great extent at the expense of Government, but hereafter repairs will be required to be executed by them in all estates that may revert to Government. The personal superintendence, from time to time, of Collectors or of their Assistants, is necessary, to secure a faithful and frugal application of the public money in this branch of expenditure. In Tanjore, in Tinnevelly, and other provinces, the care of public works of this nature is a source of great and annual anxiety.

15. The advances made annually, to aid the poorer class of cultivators, to replace their lost capital and stock, have amounted, on an average of ten years, to Pagodas 2,71,923, or Rupees 9,51,730 8 annas; and great abuses are notoriously practised in the distribution of this money. The most vigilant superintendence is required on the part of Collectors to prevent these abuses. The amount of the annual advances for cultivation will increase, as the failure in the permanent settlement brings more estates under the management of the Collector.

16. The monopolies of tobacco in Canara and Malabar require also a vigilant superintendence on the part of the Collectors of those provinces, to prevent imposition on the consumers of this article, and frauds on the Government.†

17. The foregoing enumeration of the principal duties which the gentlemen now intrusted with the charge of the revenue and magisterial offices of extensive provinces have to perform, in the Revenue department alone, will place fully before the Governor in Council the subject referred to the Board for report in the seventh paragraph of the letter from the Supreme Government; and when the duties of Magistrate, as performed by Collectors or their Assistants in another department, are reported on by the Court of Sudder Adawlut, the Governor in Council will have under consideration the whole detail of the united duties required to be discharged by the officer appointed to the joint duty of Collector and Magistrate.

18. In some collectorships, during the last eighteen months, the duties of Collector and Magistrate have devolved entirely on the Collector or on the Assistant, and have thus been discharged by one European officer, without any other European assistance, notwithstanding that in most cases an additional Assistant had been appointed to Collectors to aid them in the discharge of Magistrate's duties.

19. For instance, in the district of Bellary these united duties were discharged by the Assistant Collector alone for a period of thirteen months. The Assistant Collector in the zillah of Chingleput was also in sole charge of these united offices during many months, at the time that several resumed estates were under the immediate management of the officers of Government, and several estates were under his superintendence, as manager under the court of wards.‡

20. The Assistant to the Collector in Tanjore was also for six months in charge of the united duties of Magistrate and Collector.

21. The Collector of Ganjam was without any Assistant for a long period.

22. The

* The Committee estimate the peculation for eight years at forty thousand Star Pagodas and upwards. † See Board's Proceedings, dated 29th Dec. 1817. See report of Commission of Inquiry in Coimbatore, paragraph 36. ‡ Aumanee is the technical term; and it means that the dues of Government are to be received in kind from each field reaped, and to be stocked, watched, and sold, by the immediate servants of the Government.

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22. The Assistant to the Collector of Vizagapatam was absent a long time from ill health.

23. During the recent absence of the Collector of Canara from his district, all the united duties above described devolved on the head and sole Assistant.

24. The Collectors of Guntoor, Cuddapah, and Masulipatam, were employed in the investigation of losses sustained by the irruption of the Pindarries, and during such part of the time as the new system prevailed, their Assistants were in charge of all the duties of Collector and Magistrate.

25. The Collector of Malabar was at one time deprived, on account of ill health, of the services of his second Assistant, and subsequently his head Assistant had leave of absence for six months.

26. The Collectors of Guntoor and Nellore have, at different times, been deprived of the aid of their Assistants in the Magistrates' departments, and are so now, the Assistants being, on the recommendation of the Board, employed on an inquiry into abuses in the salt department.

27. During the period that the Assistant to the Collector of Madura and Dindigul was employed on the Committee for settling the Travancore boundary, the duties of Magistrate and Collector were all performed by Mr. Peter, and Mr. Peter has subsequently applied for leave of absence.

28. The duties of Magistrate and Collector have for some time devolved on the Collector of Cuddapah, during the absence or sickness of the Assistant, and are so now, the Assistant being absent on leave.

29. The Assistant in Bellary is again in sole charge of the united duties of the Bellary division of the Ceded District.

30. The Collector of Tanjore is again in sole charge of the duties of Collector and Magistrate of Tanjore.

31. From these details the Governor in Council will observe, that owing to the office of Magistrate and Collector not being now held by separate officers, provision has not been made, as was heretofore customary, when the departments were separate, on the absence or indisposition of the Magistrate or of the Collector, for the regular discharge, by separate persons, of the duties of the important and distinct offices of Collector and Magistrate, while the returns of the several Collectors shew that, in most cases, the Assistants are placed in the exclusive charge of the Magistrate's department.

32. Where the duties of Magistrate are entrusted, as they appear to have been generally, to Assistants, it further appears that the Collectors do not derive from Assistants so employed any material aid in the performance of revenue duties, so that, in fact, the duties of Magistrate have, in general, occupied the whole time of one European officer, without the office of Magistrate having been considered a distinct and separate office, and without a separate Assistant having, in all cases, been appointed to aid the Collector in the discharge of his revenue duties.

33. It is scarcely possible, even now, and certainly it will be hopeless to expect it when the Collectors are engaged in framing permanent ryotwar field assessments in money, that the united duties of Collector and Magistrate can be satisfactorily discharged, whenever, from causes unavoidable in a climate so unfavourable to health, or from causes common to the established customs of the service, either the Collector or his Assistant is removed for any time from the active discharge of their duties

34. The decennial village leases, as before remarked, are every where drawing to a close.* In every Collectorship of the permanently settled provinces there are either a number of villages unrented, minor estates under the immediate management, or zemindarries placed in trust, under the care of Collectors.† The detailed investigations and researches which the annual settlements of

* They all expire in three years.

† The court of wards expect Collectors to manage the estates of minors under the charge of the court, with the same care as they do the villages under the immediate charge of Collectors. The collection of the revenue of minor estates is not rented out to the highest bidder, as is understood to be frequently the case in Bengal.

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of the revenue of these villages and zemindarries will require; the vigilance and attention necessary to prevent, to detect, and punish fraud committed in the department of land revenue; of the monopolies of salt and of tobacco, of internal sayer duties, of the abkarry; to prevent fraud in the disbursements of repairs and for advances, all under the same local European authority, call for the exercise of so much zeal, vigilance, and personal superintendence, that the Board apprehend it can scarcely be expected that these duties can be performed in a satisfactory manner by any one European authority.*

35. Further, if the time and attention of the Collector and his Assistant, charged with the arduous and most important duty of commuting the revenue now payable in kind from extensive provinces for a money payment, and with the annual settlement and collection of a field rent from each cultivator, is to be diverted from such momentous duties, to enquiries into complaints for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, under Section 32, Regulation IX. A. D. 1816; also complaints for petty thefts, under Section 33, or under Section 9, to apprehend murderers, robbers, thieves, housebreakers, and disturbers of the peace, and persons charged before the Magistrate with crimes and misdemeanours; to attend to all forms of process in Sections 10, and 11; to follow up the consequences of resistance under Section 16, to the extent of depriving a Zemindar of his zemindarry; to attend personally, under Section 24, to the examination of offenders, and to superintend personally their punishment to the extent allowed by law; finally, to call upon the military, when necessary, to suppress disturbance of too serious a nature to be put down by the civil power, under Section 47, Regulation XI. A. D. 1816; the Board think it probable that the interests of revenue must materially suffer by such a diversion of the Collector's time from his revenue duties.†

36. From the above cursory review of the duties of a Magistrate, from an examination of the forms and restrictions under which the duties of Magistrate must now be discharged, and under the impression that in cases of murder, combinations of castes, disaffection, treason, or rebellion, the whole attention of a Magistrate ought to be devoted without interruption to the detection and apprehension of offenders, and to the obtaining of legal evidence to convict them, the Board apprehend that it would be out of the power of Collectors, in districts where such crimes may unfortunately prevail, to perform adequately the arduous and increasing revenue duties which would be required of them. Indeed, if such events occur now, when the Collector is without an Assistant, or the Assistant is acting in both situations during the absence of the Collector, and arduous revenue duties are going on at the same time, the Board think it must be admitted that both duties cannot, in such cases, receive an adequate portion of the Collector's attention; neither can the Magistrate be expected, during the investigation of such serious crimes, or while engaged in endeavouring to prevent them, to pay much attention to revenue affairs; or if the affairs of revenue require his immediate attention, those of the Magistrate's department must be neglected.

37. The Board, in 1816, required that Collectors should transmit a monthly diary of their proceedings, to contain the substance of the principal orders issued to, and reports received from the different local native officers. They suggested ‡ that the Assistants to Collectors might usefully be employed in preparing this document. It has been furnished from very few districts, and the Board have not felt warranted in repeating their orders respecting it, owing to the pressure of public business and the frequent absence of the Assistants,

* Previously to the establishment of the courts of justice, the inquiry into the misconduct of native servants was conducted by the Collectors, in a manner, and the punishment awarded was inflicted without reference to higher authority. See the proceedings of the Tanjore Committee of 1806 Now, in most cases, the native servants are, equally with other subjects of the Company, under the protection of the courts, and cannot be punished in their persons or property, except by means of a civil or criminal prosecution.

† For the summary way in which Collectors, prior to the establishment of courts of justice, discharged the duties of Magistrate and of Judges, see Board's proceedings, dated 18th of December 1815, paragraphs 7 to 19 inclusive. In point of fact, these duties were not performed at all in most collectorships.

‡ Circular letter, dated 14th March 1816.

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Assistants, or in consequence of none having been appointed. From this document, and from the reports of Collectors, and from them only, can any information be obtained of the real state of the provinces under the superintendence of the Board; and, if the diary ceases to be furnished, the Collector's reports will contain all the information that the Board or Government will receive of the internal state of each province. The actual labour of preparing a diary, that is of translating or abstracting letters received, and orders passed thereon, might be transferred to a native; but the selection of subjects must, to a certain extent, be superintended either by the Collector or by his Assistant.

38. The Board also required the transmission of a register of revenue complaints, and of decisions passed thereon; but this requisition is complied with by very few Collectors; and Mr. Chaplin, in reply to the requisition, observed,* that he devoted from one to two hours daily in the hearing of complaints *vivâ voce* in open cutcherry, and hoped that the mode of preferring written complaints would not become general, by which measure, he was of opinion, redress would be much less generally and less speedily afforded, than under the system at present observed by him. Under this explanation, the Board did not insist on the transmission of the register; but if the duty is of such importance, and occupies so much time, it must be admitted that it is proper that the performance of it should be rigidly exacted, and time be secured for its discharge."

39. The Regulations of A. D. 1816, vest also in Collectors certain judicial powers; and although they authorize the inquiries to be conducted in a summary manner, it will nevertheless be necessary for Collectors to conduct these inquiries in a judicial manner, and according to judicial forms, inasmuch as an appeal is permitted from their summary decisions.

40. On the whole, the Board are of opinion that in several districts the union of the Magistrate's office with that of Collector has proved detrimental to the interests of the Revenue department. They do not mean to deny, that when a Collector and an Assistant are constantly present in each collectorship, the various duties required to be executed in the two departments entrusted to the charge of Collectors may not, under ordinary circumstances, be performed in a satisfactory manner; but the principal objection to this accumulation of important duties on one officer, appears to the Board to be the unequal demand on the Collector's time and attention, which these various duties call for, particularly such as in the Revenue department are of a nature which require actual inspection, or of a complicated nature, requiring time and patience to unravel. The difficulty must, in that case, be in pursuing a system of superintendence, control, and execution, with expedition and regularity, in each branch of the fiscal and criminal branches of administration entrusted to Collectors. A partial remedy for this great public inconvenience, as in the opinion of the Board it must soon prove, under the heavy and unusually important duties about to devolve on Collectors, would be to place the duties of Magistrate, at least, in the hands of a separate officer, to be held responsible for the constant, regular, and efficient discharge of these duties, thereby leaving the Collector and his Assistant together, or each in the absence of the other, at liberty to devote their whole time and attention to these important labours, which the orders of the Honourable Court of Directors for the abolition of all zemindarry, mootadarry, and village settlements, will impose on those officers. At any rate, with reference to the interests of the Revenue department, the Board strongly recommend, that whenever either the Collector or the Assistant, performing the duties of Magistrate, from any cause relinquishes for any length of time the duties of his office, a separate person be appointed to take charge of such duties, in order that a separate European officer may always be in the active superintendence of each of the two departments, fiscal and criminal, now frequently united in the person of the Collector or of his Assistant.

REPORT

* Letter from Mr. Chaplin, 9th December 1812. From Mr. Chaplin, 29 May 1815.

REPORT *of the* SUDDER ADAWLUT, *Dated the 21st September* 1818.

To the Secretary to Government in the Judicial Department.

Report of Sudder Adawlut, 21 Sept. 1818.

SIR:

1. I had the honour of apprizing you, by my letter of 6th July last, that the Judges of the courts of Sudder and Foujdarry Adawlut were engaged in an examination of the various documents which might be expected to contain the information required by the Government of Fort William, regarding the practical effects of the changes in the system of judicial administration which were introduced under the Regulations passed in the year 1816. I have now to report the result of that examination.

2. The inquiries of the Supreme Government, with regard to the operation of the new system, refer generally to the three following heads:

1st, The diminution of the aggregate expences of the revenue, judicial, and police establishments: 2d, The prevention of crimes; and 3d, The detection and punishment of criminals.

3. The first head, it must be observed, does not fall within the exclusive cognizance of the courts; for such parts of the late police establishments as may be still employed in that duty, are transferred to the superintendence and control of the Collectors, and are no longer distinguished from the establishments of the Revenue department. Neither is it, at present, in the power of the Judges to report the alterations which may be practicable or necessary, whether of diminution or increase, in the establishments still considered to be strictly judicial, as the replies of the several officers to the call addressed to them through the provincial court, in consequence of your letter of the 8th May last, have not yet been all received.

4. With reference to the second and third general heads of inquiry, statements were furnished from this office, at the requisition of Mr. Commissioner Stratton, which would appear to have been laid before the Government of Fort St. George, and communicated to the Government of Fort William. The remarks which may seem to be required from the Judges on these statements will be submitted, in treating of the particular branches of the judicial administration to which they respectively belong.

5. The statements furnished from the Foujdarry or criminal department claim the first attention, according to the order of the general heads of inquiry before noticed. They consist of four, three of which only would appear to require remark, viz.

6. The first is a statement of the number of robberies and other crimes of a heinous nature ascertained by the police officers, or otherwise discovered to have been committed, within the several zillahs under the presidency of Fort St. George, from 1813 to 1817 inclusive. According to this statement, the number of ascertained crimes has varied in the five years from 3,137, the highest, in the second, viz. 1814; to 1,117, the lowest, in the fourth, viz. 1816. The series warrants no conclusive inference for which the number fell in 1816, from November of which year only did the transfer of the police to the superintendence of the Collectors of land revenue take effect: it increased in the following year, 1817, to 2,366, being the second in magnitude in the statement, while the number of persons concerned, in proportion to the number of crimes committed, has considerably increased in the last year. The number of persons apprehended appears to have been generally in the proportion of about one-half. In this review, the Judges have excluded from the totals quoted a body of Pindarries, who invaded the Masulipatam zillah in the year 1815, and whose computed numbers were inserted by the Magistrate in the statement of that year.

Sic orig.

7. The second statement furnished to the Commission, shews the number of persons committed or held to bail by the Magistrates and criminal Judges of the several zillahs under the presidency of Fort St. George, to take their trial before

before the court of circuit, from 1813 to 1817 inclusive. This statement shews a very considerable falling off in the number of cases in which it was judged proper to commit the persons accused or to hold them to bail. These appear to have varied, from 1,129 in the first year of the statement (1813), to 554 in the last (or 1817). The diminution was not progressive. In the second year (1814) the number fell to 978; in the following year (1815) it was augmented to 1,009. In the year 1816 the number of crimes is stated at 808, and in the last year (1817) at only 554. The number of persons concerned and committed, or held to bail, has also varied, being 2,645 in the first year of the statement, and 1,115 in the last.

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8. It would appear from the eighth paragraph of the report of the Commission, accompanying Mr. Stratton's letter to the Chief Secretary to Government under date the 23d April last, that the Commission had inferred, from the statements furnished to Mr. Stratton, and had represented to Government, that both the civil and criminal business before the zillah Judges had greatly diminished under the operation of the Regulations of 1816; but allowing, what there may appear reason to doubt, that this were the case, a comparison of the results of the two statements can scarcely be said to afford matter for congratulation. The number of heinous offences ascertained to have been perpetrated has multiplied, under the operation of these Regulations, from 1,117 in the first year, to 2,366 in the second, while the number of cases in which there has appeared sufficient evidence to warrant committing or holding the accused to bail, fell from 1,009 in the year 1815, to 808 in the first year of the system, and was further diminished under its continued operation, in the second, to 554. Such a result cannot be the effect of increased vigilance on the part of the police, but it may be attributable to an opposite cause, and it certainly offers no assurance that persons and property are more efficiently protected than they were before the change of system was introduced. With regard to the time of the criminal Judges which may be occupied in the investigation of the more limited number of cases which may be brought before them, no information is to be collected from the statements.

9. The third statement submitted by the Commission, and on which only one observation is necessary, is a statement of cases depending before the Magistrate and criminal Judges at the end of each year. The large number which appears in the years 1813, 1814, and 1815, must be ascribed to the errors of the Judge and Magistrate of Salem. On reference to the report of prisoners in that zillah for the month of January 1816, there appeared 482 cases unexamined; and the court felt it to be their duty to direct that the civil court should be shut, in order to clear off the arrear of criminal business.

10. No inference, with regard to the operations of the system, can be deduced from the fourth statement submitted by the Commission to Government.

11. The court will now proceed to notice the following points, relative to the operation of the criminal enactments of 1816, on which the Vice-President in Council desires to receive information.

12. The first question is: "Whether the period during which prisoners are "detained in confinement under examination is generally shorter than for-"merly?"

13. Both in the periodical reports which have been forwarded since the introduction of the new system, and in the trials which have been forwarded from time to time to the court of Foujdarry Adawlut, numerous instances have appeared of detention, either at the police stations or with the Magistrate, before the prisoners have been forwarded to the criminal Judge of the zillah; and in some instances considerable delay has been occasioned by the irregularity of the police officers, in sending to the Magistrate prisoners who should have been forwarded direct to the criminal Judge of the zillah. The attention of the several officers by whom these delays have been reported has been particularly directed by the court to a correction of these abuses: and, in as far as they arise from inattention on the part of the police officers to the provisions of the Regulations, it is to be expected that they will gradually become of less frequent occurrence. It is, however, the duty of the court to remark, that in some

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some of the cases here referred to, the delays have been attributable to causes which may be considered to be inherent in the system, and to which, therefore, it can scarcely be hoped that time will bring any remedy.

14. In some of the reports of criminal cases depending on the 31st December last,* as well as in some of the late quarterly reports of prisoners, certain numbers attracted the attention of the court, wherein persons who had been apprehended as far back as the month of August preceding were stated to be still under examination. On calling upon the several authorities to explain the causes of these delays, it appeared that they had arisen either from the non-arrival of the prisoners at the zillah stations, or from the non-attendance of the prosecutors and witnesses, or from references to or through the Magistrates for further information. Where such delays have been occasioned by the remissness of the police officers, the Magistrates have been commanded to take the necessary measures, in order to prevent the recurrence of such irregularities; but that they still continue to prevail to a very considerable extent is apparent, from a document which accompanied the Canara calendar for the second sessions of 1818, and which shews that prisoners have been detained at the police stations, in numerous instances, for periods varying from nine days to two months and a half. The second cause of delay will be more particularly considered under the next head of inquiry; and, with regard to the third cause, it is to be apprehended, that the want of a free communication between the criminal Judges and the native officers of police (an evil which is inherent in the very nature of the new system) will ever be found to be productive of delays seriously detrimental to the ends of public justice.

15. Facts which have appeared on the records of criminal trials referred for the final sentence of the Foujdarry Adawlut, and which have called forth particular remark, may also be noticed in this place. In one of the trials referred from Bellary during the second session of 1817, it appeared in evidence that the prisoners had been detained at the police cutcherry for fifteen days. In a trial which was referred during the same sessions from the zillah of Canara, it appeared that inquiry was suspended for some days subsequent to the commission of a homicide, owing to the absence of the Shambog (or Curnum) of the village; and, from the records of various trials received from the zillahs in the northern and western division, during the last and present sessions, it has been seen, that delay has resulted from the continued irregularity of the police officers, in regard to forwarding prisoners to the Magistrate, in the first instance, instead of the criminal Judge.

16. In all these instances, the court of Foujdarry Adawlut have issued such instructions as they considered necessary, in order to obviate the recurrence of delays so injurious to the ends of justice; but the following passages will place in a strong point of view the great inconvenience and delay which must necessarily be expected to arise out of the operation of the present system, and which the free communication, by a late enactment provided to be made between the zillah criminal Judge and Magistrate, can only have a partial tendency to remove. In a return made by the criminal Judge in the zillah of Cuddapah to a precept calling for additional evidence in a case which had been referred for the final sentence of this court, it was stated by the criminal Judge, that he "entered into communication with the Magistrate of the zillah, in order to "procure the assistance of the police of the talook in which the prisoner had "resided, but that the requisite information had not yet been received, as the "Magistrate was employed on a jummabundy tour in the opposite quarter of "the zillah." The second Judge on circuit in the northern division, in submitting a trial from the zillah of Rajahmundry for the first sessions of this year, stated, in explanation of the absence of the police proceedings, that a communication had been made by the criminal Judge with the acting Magistrate of the zillah, but that as the acting Magistrate resided at Muglatore, upwards of forty miles from Rajahmundry, as the assistant Magistrate who forwarded the prisoners originally resided at Cocanada, distant from Muglatore about sixty miles, and as Dracheram, before the police officer of which place the first proceedings were held, lies between the two, a distance of more than two hundred miles,

* Canara, Nellore, Chittoor, and Chingleput.

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miles, a great part of which was not tappaul road, must be traversed, before the required proceedings could be brought before the court: and again, the first Judge of the court of circuit in the southern division, in referring a trial from Trichinopoly for the first quarterly sessions of the present year, adverted to the fact of the inability of the district police officer to attend at a criminal investigation, by reason of his occupation in revenue duties. The attendance of the police officer, in this particular instance, was not, indeed, of indispensable necessity, but it serves to illustrate the correctness of the remark made by the first Judge, that " the interference of the revenue duties with those of " the police is a matter of daily observation."

17. The second question is: " Whether prosecutors and witnesses are now " exposed to less inconvenience than heretofore, in attending to give their evi- " dence before the Magistrate and criminal courts?"

18. Since the introduction of the new system it has appeared, from several reports and other documents transmitted to the court of Foujdarry Adawlut, that the criminal Judges have, in many instances, experienced considerable difficulty in procuring the attendance of prosecutors and witnesses. This circumstance may be attributable, in a great measure, either to negligence or to an imperfect acquaintance with their duty on the part of the police officers: to negligence, in omitting to forward the prosecutors and witnesses, together with the prisoners; or to ignorance of their duty, in forwarding to the Magistrate persons who ought to have been sent direct to the criminal Judge of the zillah. The attention of the Foujdarry Adawlut has been particularly turned towards the correction of this evil; and, as far as it has arisen from the carelessness of the native officers of police, it is to be presumed that a remedy will be found in a vigilant and constant control over the conduct of the police officers. But, with regard to the second and most extensive source of the evil here noticed, the court are of opinion that it will long continue to be productive of serious inconvenience; and they consider it, indeed, to be extremely questionable, whether it will ever be entirely removed. The ground of this opinion is, that where a police officer is necessarily left, in a great measure, to form his own judgment regarding the nature and degree of aggravation of any given offence, he may frequently send to the Magistrate persons whom that officer may consider it requisite to transfer to the criminal Judge; and it is scarcely necessary to observe, that in all the cases here supposed (cases which have been hitherto found to be of such constant occurrence) the prosecutors must be exposed to much and serious inconvenience.

19. A few of the instances will now be stated which have been brought under the observation of the Foujdarry Adawlut, connected with this branch of the subject. On calling on the criminal Judge in the zillah of Canara to explain the cause of the delay in a certain criminal case depending before him, on the 31st December 1817, wherein the charge was stated to have been preferred on the 20th August, he stated in his return to the court's precept, that in consequence of the neglect of the Tehsildar to send the prosecutor and witnesses to court along with the prisoners, he was instructed to send them up without delay; that seven of them arrived shortly afterwards, but that the remaining five witnesses did not arrive till the 27th January, when they were examined and the case finally determined. Similar difficulties have been stated to be experienced by the criminal Judges of Chingleput, Nellore, and Rajahmundry, and in all these cases the unwillingness of the prosecutor and witnesses to attend before the criminal Judge is to be ascribed to the distance they would have had to travel before they could reach the zillah court.

20. The last questions to be considered are: " Whether the existing regu- " lations provide effectually for the detection and punishment of abuses of " power committed by the natives, to whom the charge of the village and dis- " trict police is now entrusted? and, whether such abuses are more or less fre- " quently committed than formerly?"

21. The two questions are so intimately connected in their nature, that the court consider it expedient to treat of them under one head: and, first, it appears to the court of Foujdarry Adawlut, that the comparative efficacy of the old and new law, in providing for the detection and punishment of abuses of power

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power committed by the native officers of police, will be best shewn, by comparing the present enactments with those formerly in force respecting the regulation of the system of police. It was declared in the preamble of Regulation V. of 1811, that the local knowledge possessed by the courts of circuit, and the number of cases brought before them at the zillah jail deliveries, in which the conduct of the police officers falls within their observation, render it particularly expedient that those courts should control the appointments of the Cutwal's police Darogahs, and other the then existing principal officers of the police; and it was further declared, with respect to such police officers, that they would be liable to removal from the public trusts committed to them, although no specific acts of criminality might be established against them, when there might be sufficient reason to consider them incapable or neglectful of prescribed duties, or in any respect unworthy of public confidence, especially with regard to police officers within the limits of whose jurisdiction robberies or other public crimes might become to be prevalent. In conformity with the principle set forth in the preamble in the Regulation now quoted, it was provided that, on the examination of persons to hold the situations of Cutwal or Darogah, a report should be made to the court of circuit, with whom it should remain to confirm the appointment of the person so nominated, or to call for any further information that might appear requisite respecting the past employments, character, or qualification of the person proposed, or if the appointment of such person appeared objectionable, to require the Magistrate to nominate another person; and, in like manner, it was for the Judges of the court of circuit to confirm the resignation or removal of all such police officers.

22. On comparing with these provisions the rules enacted in 1816, for the establishment of a new system of police, it is to be observed, as a distinction of essential importance between the two laws, that with the exception of the village watchers and " Cutwals, wherever it may be necessary to employ them," the courts of circuit do not possess any direct control over the appointment and removal of its several native officers, who are now employed in the duties of the police. It is, indeed, declared in Regulation XI. of 1816, that officers of police, " or other persons," maltreating a prisoner or witness, shall be subject to punishment by the Magistrate or by the criminal Judge, or be committed to take their trial before the court of circuit; and it is further declared, that police officers shall be liable to be prosecuted for abuse of authority, either criminally before the Magistrate, or for damages in the zillah court. But the third Judge of the court of circuit in the western division, in addressing the court on the 19th March last, submits it as his firm conviction, grounded on long and uniform experience, that the latter measure " will not be resorted to by the " people, from a dread of the effects of the resentment of the native officers in " general, as well as of the particular individual against whom the charge may " be preferred;" and when to this unwillingness on the part of the natives to sue for redress of wrongs is added the difficulty, in many cases, of establishing sufficient " proof of criminality," it follows, as an unavoidable consequence, that the recent police enactments have an evident tendency to weaken that vigilant and efficient control, which can alone be expected to operate as an effectual check to abuse of authority among the native officers of police.

23. The only point that remains to be considered is, whether such abuses have, in point of fact, been more or less frequently committed than formerly: and here an observation naturally suggests itself, that if the reasoning pursued in the former part of this head of inquiry be admitted to be correct, it is to be apprehended that much abuse of authority may escape unnoticed, and that the actual extent of this evil may be unknown. Within the short period, however, which has elapsed since the introduction of the present system, instances of abuse of authority among the native officers of police have fallen within the observation of the court; and it appears, from the last quarterly report of prisoners from the zillah of Bellary, that two police officers have been committed to take their trial before the court of circuit, on a charge of " having received bribes to release thieves." The conduct of the Tehsildars in that district, in regard to detaining prisoners at their cutcherries, rendered it necessary for the court to direct, on the 15th November last, that the Magistrate should call the attention of the police officers under his authority to the provisions

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sions of the Regulations; and it appears, from the last quarterly report of prisoners received from Cuddapah, that one person, who had been apprehended by the police on the 17th November, did not reach the zillah court until the 10th January. A circular order was issued by the court of Foujdarry Adawlut, on the 18th June last, enjoining that the district police officers in the several zillahs should be particularly warned against employing either promises or threats in order to obtain confessions; but instances have very lately appeared in criminal trials referred to the Foujdarry Adawlut, in which undue means have been used by the police officers, with a view to persuade or compel the accused to make a confession. A remarkable instance, however, yet remains to be noticed by the court of a wanton abuse of authority, which displays, in striking colours, the danger to be apprehended from the exercise of the new powers with which the native officers of revenue have been entrusted, as officers of police, under the Regulation of 1816. It is contained in a letter from the second Judge on circuit in the northern division, dated the 24th March last, wherein that officer reports to the court the circumstances of a case, in which it appears, by the admission before the court of circuit of one of the native police officers in the zillah of Rajahmundry, that "the accused had been kept, "from the date of his apprehension to the day on which he was forwarded to "the Magistrate, a period of more than three weeks, closely confined in the "stocks."

24. The court of Foujdarry Adawlut have now replied to the several points on which the Supreme Government desire to possess information, regarding the operation of the criminal enactments of 1816. Many of the events noticed under the foregoing heads of inquiry were actually anticipated by the court, when the rules now in force were originally under their consideration.

25. To advert, in the first place, to the delays which take place before prisoners may be brought to trial, an observation was recorded by the Foujdarry Adawlut on this particular point, on their proceedings of the 29th July 1816, which has received remarkable confirmation from the last quarterly report received from the criminal Judge in the zillah of Cuddapah. The court observed, that "it was impossible to overlook the distresses to which the poorer classes "might be subject in pursuing the motions of a wandering tribunal, or not to "contemplate the probability of a future arrangement, not very distant, per- "haps, for declaring that the office for receiving and hearing complaints of "personal injury and outrage shall be held at a known fixed station, and that "it shall not be necessary for an aggrieved party, seeking redress, to follow "the footsteps of any individual public officer." The case here contemplated is thus realized, with the substitution of the accused for the complainant, in the following words of the criminal Judge of Cuddapah: as the prisoner has been conducted in custody from the pooloovendula talook to Cuddapah, had thence followed the Magistrate to Nosoom, and had thence been returned to Cuddapah, this journey of more than one hundred and fifty miles was deemed sufficient, "and he was ordered to be released." Again, the court observed, in their proceedings of the above date, "that the attention of the criminal Judge "would, in all probability, be frequently called to the cases of persons who "might be forwarded by the Collector, after perhaps but a defective prelimi- "nary inquiry; or to those of persons forwarded by a police officer, whose "proceedings, it was to be expected, would be still more defective, but over "whom the criminal Judge will not hold any control, and to whom he cannot "even issue letters of instruction:" and it has accordingly been shewn, under the first head of inquiry, that much delay has been found to arise in practice from frequent references to or through the Magistrate for additional information. The inconveniences flowing from this source are also very forcibly described by the second Judge, late on circuit in the centre division, in the general report which was forwarded to Government on the 26th ultimo. On the objection urged by the court, in the same proceedings, to the introduction of the present system, on the ground "that the revenue administration would "be the primary, and that of justice the secondary duty of the Magistrate," as well as of his subordinate officers, the letter from the first Judge of the court of circuit in the southern division of the 6th February last, quoted in the former part of these proceedings, and a letter from the Magistrate of Malabar, assign-

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ing as a reason for not investigating in detail cases sent in by the police officers, that his duties as Magistrate occupied already " sometimes two or three hours " or more a day," form a strong practical comment; while the proceedings of the Magistrate of Vizagapatam, which were laid before Government on the 10th July last, and the reports from the Judges late on circuit in the centre, southern, northern, and western divisions,* which have been also submitted to the Right Honourable the Governor in Council, shew that the evil is as wide in its extent, as it is detrimental in its operation. And, in confirmation of the justness of the remark made by the court of circuit for the centre division, as noticed by the Foujdarry Adawlut in their proceedings of the 15th August last, that, " according to their belief, no single native was able to perform the two " duties of revenue and police, and that, to their knowledge, no native in " their division ever did," it is only necessary to refer to a passage in a letter lately received from the first Judge on circuit in the northern division, wherein he states, that the Tehsildars in that division have been in the habit of delegating their powers to their Peishcars and other subordinate officers.

26. The quotation which has already been made from the court's proceedings of the 29th July 1816, may suffice to shew the opinion which has been always entertained by the Judges of the Sudder and Foujdarry Adawlut, as to the inconveniences to which it was probable that prosecutors and witnesses would be exposed, under the operation of the present system, and it only remains, therefore, that they should refer to such parts of their former proceedings as are connected with the third and last head of the present inquiry, viz. as to the frequency of abuse of power, and the means of detecting and punishing it.

27. The particular question which this division of the subject embraces was fully considered by the court of Foujdarry Adawlut, when they had before them the returns from the several provincial courts, relative to the then proposed modifications in the system of internal administration; and the passages which were then quoted by the court exhibited, in a very forcible manner, the opinions generally entertained as to the consequences likely to ensue from the union in the same office of the respective duties of revenue and police. On this point, indeed, there was scarcely any diversity of opinion among the several judicial officers, whose returns were exhibited to the Government with the Court's proceedings of the 15th August last; and the court of circuit in the centre division concluded their remarks on this branch of the subject with observing, that " the union of the two duties, besides giving to the Tehsildars " a business they could not do, would give them a power they should not hold, " so great, indeed, that it might induce them often, in the collection of the " revenue, to make use of force and terror with impunity."

28. The power possessed by the native officers of police, under the subsisting Regulations, to punish by confinement in the stocks, was considered by the Foujdarry Adawlut, in their proceedings of the 21st December 1815, upon the Regulation framed by the Commissioners of internal administration for the introduction of a new system of police, and it was then observed by the court, that twenty-four hours confinement in the stocks appeared an excessive punishment, but that, whatever authority might be granted, in this respect, to the Tehsildars, it ought to be limited in its exercise to the lower orders of the people. A provision to this effect has been accordingly introduced in Regulation XI. of 1816, and the period of confinement in the stocks is limited to six hours; but the very alarming instance of an abuse of authority in this respect, noticed in the former part of these proceedings, seems to render it deserving of serious consideration, whether a power, the exercise of which may be attended with such danger to the liberty of the subject, and which may be perverted, notwithstanding the most constant and vigilant control, to the degradation of persons of respectability, should not be altogether withdrawn, as an engine not safe to be trusted in the hands of the native officers of police.

29. In

* Samuel Skinner, Esq. second Judge of the court of circuit in the centre division; C H. Higginson, Esq. late acting third Judge of the court of circuit in the southern division; Peter Cherry, Esq. second Judge of the court of circuit in the northern division; and James Stevens, Esq. first Judge of the court of circuit in the western division.

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29. In replying to the third general head of inquiry, which regards the operation of the Regulations of 1816 in the civil branch of the judicial administration, it is proper to state the observations which have occurred on the general abstract statement of causes decided in the zillah courts, from the year 1813 to 1817, which was furnished to the Commission.

30. On an inspection of that statement it appears, that 29,551 suits were adjudicated by the several tribunals, or withdrawn by the parties, in the year 1813; and that, of this number, 24,888 were disposed of by the native judicatories: that, in the following year (1811), the total number of decisions and adjustments was 32,034, of which 26,717 were disposed of by the native tribunals: that in the year 1815 the number of decisions and adjustments had increased to 38,615, of which 30,687 were disposed of by the native judicatories.

31. In the year 1816 the new system was introduced, and had a partial operation: the number of decisions and adjustments increased to 46,909, of which 39,714 were by the native judicatories. In 1817 the number of decisions and adjustments amounted to 71,051, of which 66,302 were by the native tribunals.

32. The total number of decisions or adjustments by the European tribunals in those years was, therefore, as follows:

1813	4,663
1814	5,317
1815	7,928
1816	7,195
1817	4,749

and the number of suits remaining on the files of those tribunals at the commencement of each succeeding year is shewn underneath:

1814	6,247
1815	6,648
1816	6,476
1817	4,603
1818	3,565

According to this statement, the quantity of business performed by the European tribunals continued to increase in each year progressively, till the end of 1815, while the number of the suits remaining on the files on the 1st January, in the three first years of the series, fluctuated, augmenting in the second, and falling off in the third year, but exceeding in the latter the number remaining on the files in the first. In the two following years, the quantity of business done, and the number of suits remaining on the files, decreased.

33. It may be inferred from this result of a comparison of the totals of figures, that the operation of the changes which have been introduced in the administration of justice in civil cases has been beneficial: but the result is, perhaps, traceable to causes of which the court possess but partial information. Indeed, the great increase of suits, from 46,909 to 71,051 in one year, might be taken as ground for doubting the benefit of encouraging so largely a spirit of litigation. But on a nearer inspection of the columns of this statement, and reasoning on the supposition that the returns from the village Moonsiff's courts exhibit faithfully the quantity of work actually done by those judicatories, it would appear, that the litigation in the newly constituted village courts is still on a limited scale, the decisions by those courts amounting only to 6,981 and the adjustments to 3,312, forming a total of 10,293 in the year 1817. The number of decisions by village punchayets is 214, and of adjustments 36. The decisions by the district punchayets are 100, and adjustments 12.

34. The proportions which the latter numbers bear to the aggregate number of suits disposed of by the several tribunals, will, of course, be taken into consideration, in forming an opinion regarding the degree in which the tribunals of village and district punchayets, as organized under the provisions of Regulations V. and VII. 1816, are freely resorted to by parties in civil suits. It certainly does not manifest a preference of the village and district punchayets to the other civil courts.

35. But

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35. But, to pursue the comparison as far as the statement under consideration admits of, between the work done under the means formerly provided for the adjudication of civil causes, and those which exist under the Regulations passed in 1816, it would appear that the number of suits adjudicated by the former native Commissioners, meaning the Sudder Aumeens,* district Moonsiffs, and inferior Commissioners, appointed before the passing of the Regulations of 1816, or withdrawn from before those tribunals, in consequence of adjustments by the parties, was as follows:

1813 .... 24,888 Suits
1814 26,717
1815 30,687

36. It will be observed, that the adjudication of civil suits in the native courts, before passing the Regulations proposed by the Commission appointed for revising the judicial system, was progressively increasing. The numbers adjusted by the parties, indeed, rather declined, and it is therefore proper, in order to a fair appreciation of the labours of those tribunals, to state the actual business done, in the shape of decisions and dismissals, which appear as follows:

In 1813 14,902
1814 16,801
1815 21,571

37. This view may even be extended to the following year, in which the system of the Commission of revision was introduced, when the number of suits decreed or dismissed by the former Commissioners appears to have been 23,511, and the number adjusted by parties was 8,448, making the total number disposed of by those tribunals 31,959, being 1,272 more than in the preceding year. The jurisdiction of the Sudder Aumeens under their former constitution, it must be kept in view, extended only to suits for personal property, not exceeding in amount or value one hundred Arcot rupees, or for the property or possession of land, the annual produce of which, if malguzary, might not be above one hundred Arcot rupees, or more than ten Arcot rupees if lackhirage; or for any other description of real property, the computed value of which might not exceed one hundred Arcot rupees. The jurisdiction of other native Commissioners was limited to suits for personal property, not exceeding in amount or value eighty Arcot rupees.

38. It is not intended to offer an estimate of the work which might have been performed by those minor judicatories in the course of the year 1816, limited as their jurisdiction then was, if their labours had not been interrupted; but, in order to the formation of a just judgment on the important subject under consideration, it is proper that the Supreme Government should be apprized of the progress of this part of the Judicial establishments, from its commencement until the alterations were introduced in 1816. This information will be found to be stated up to the year ending 31st December 1812, in a report laid before Government, under date the 19th February 1813. The following abstract, formed from that document, may save the trouble of reference.

39. It

* In the statement prepared in the office of the Register, under the directions of Mr. Commissioner Stratton, then an acting Judge of the court, the column allotted to the Sudder Aumeens is left blank for the years 1813, 1814, and 1815, and the statement would consequently appear to shew that no cases were disposed of by Sudder Aumeens, previously to the year 1816; but this is not consistent with the fact. The returns furnished by five zillah Judges, not having distinguished the cases decided by the Sudder Aumeens from those decided by other native Commissioners, it is not practicable to state correctly the full number of cases disposed of by the Sudder Aumeens previously to the enlargement of their jurisdiction in 1816, but the numbers of which distinct returns have been furnished were

	Decreed or Dismissed.	Adjusted.
In 1813	1,804	1,310
1814	2,198	1,613
1815	2,389	1,617

In the following years they appear, as in the statement,

In 1806	1,385	497
1817	3,862	1,358

This explanation appears to be necessary to prevent misapprehension.

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39. It appears that, in the year

1802,

Two zillah courts were established: it may be right to add, late in the year.

The number of suits decided or dismissed.............................. 85
The number remaining on the files, at the commencement of the following year, was 80.

In 1803,

Seven courts were opened: two of them late in the year.

Suits decided or dismissed....... 1,376
Remaining on the files......873
Of these, 43 were depending before native commissioners.

In 1804,

The same number of courts continued.

Suits decided or dismissed....... 3,612
Of which 721 were by natives.
Remaining on the files......4,999
Of these 1,173 before natives.

In 1805,

Two more courts were opened.

Suits decided or dismissed....... 5,398
Of which, 1,203 by natives.
Remaining on the files.....7,790
Of these, 2,287 before natives.

In 1806.

The number of zillah courts in this year was twenty-five. In four no sittings were held. Of the other twenty-one some did not open till late in the year.

Suits decided or dismissed 9,886
Of which, 3,102 by natives.
Remaining on the files...14,180
Of these, 3,491 before natives.

In 1807,

Twenty-five courts.

Suits decided or dismissed....... 21,003
Of which, 4,881 by natives.
Remaining on the files...32,822
Of these, 7,879 before natives.

In 1808,

Six courts were abolished.

Suits decided or dismissed....... 18,039
Of which, 6,516 by natives.
Remaining on the files...31,874
Of these, 10,210 before natives.

In 1809.

The courts remaining on the reduced scale.

Regulations IV. VIII. and XVII. of the preceding year, establishing stamp duties and institution fees, which may have had a partial effect in that year, appear in this year to be in full operation.

The remuneration of native Commissioners commenced under Regulation V. 1808.

Suits decided or struck off the files.................................... 40,045
Of which, 14,025 by natives.
Remaining on the files...15,875
Of these, 8,262 before natives.

In 1810.

The European tribunals remaining the same, the aids to those courts, provided by Regulation VII. 1809, in the appointment of head native Commissioners with more extensive jurisdiction and modification of the other Commissioners,

Suits decided or dismissed 29,873
Of which, 22,674 by natives.
Remaining on the files...16,593
Of these, 8,642 before natives.

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sioners, must have come into operation; also Regulation X. 1809, constituting the law officers of zillah courts *ex officiô* head native Commissioners.	
	In 1811,
No alteration, except an augmentation of the number of native Commissioners.	Suits decided or dismissed .... 37,243 Of which, 31,132 by natives. Remaining on the files...15,820 Of these, 9,599 before natives.
	In 1812.
As above.	Suits decided or dismissed .... 38,173 Of which, 33,232 before natives. Remaining on the files...16,178 Of these, 10,254 before natives.

40. In submitting this review of the progress of the system, the Court remarked that the assistance derived from the natives commissioned to administer justice, from being very inconsiderable at first, had become efficient, to the extent of disposing of seven-eighths of the number of suits instituted. The Court then stated their opinion, that the number of Commissioners was not adequate to the demands of the country, and that this part of the judicial establishments could not, therefore, be considered as in full operation, but as in progress. But to return to the statement furnished to the Commissioner, Mr. Stratton.

41. It has been observed, that the alterations of the Judicial system, recommended by the Commission of Revision, commenced and had a partial operation in 1816, when the numbers of suits disposed of by the Sudder Aumeens were:

Decreed or dismissed	1,385	
Adjusted by the parties	497	
		1,882
By the district Moonsiffs:		
Decreed or dismissed	3,189	
Adjusted by the parties	1,941	
		5,133
	Total	7,015

decided by these tribunals, in the capacities in which they may be considered to resemble what they were before the introduction of the new system, and which, added to the number noticed in the preceding paragraph, form a total of 38,974.

42. The numbers of suits disposed of by the same tribunals in the year 1817 were as follows:

By the Sudder Aumeens:			
Decreed or dismissed	3,862		
Adjusted by the parties	1,358		
		5,220	
By the district Moonsiffs:			
Decreed or dismissed	30,948		
Adjusted by the parties	16,903		
		47,851	
			53,071
The suits disposed of by the remaining former Commissioners in the same time were:			
Decreed or dismissed	825		
Adjusted by the parties	932		
			1,757
		Total	54,828

disposed of by natives holding Commissions for the adjudication of civil suits in the year 1817.

43. The

43. The considerable increase of the number will doubtless attract attention, and the records of the Court do not contain the information which may be desired on this head. It may be owing to the extension of the jurisdiction of these tribunals, for the number of them has been materially diminished, as the Court had occasion to point out in a letter to the Secretary to Government, under date the 22d August 1816. Copy of the marginal note in the proceedings referred to is added, to save the trouble of reference.* The number of suits decided by these tribunals may also be greater than it otherwise would have been, in consequence of persons having suits for personal property of a value less than ten rupees, resorting to the district Moonsiffs in preference to the village Moonsiffs.

44. There is not, perhaps, evidence before the Court sufficient to warrant an assertion, that such preference either has existed, or does exist, generally throughout the provinces; but, for the period during which the returns from the zillah courts continued to describe the nature and amount of the suits decided by the district Moonsiffs, the Court are enabled to state, that the instances of such suits being instituted before the district Moonsiffs were numerous in several zillahs.

45. It will be in the recollection of the Right Honourable the Governor in Council, that on a representation that an additional expense would be necessary, to enable the zillah Judges to continue to transmit this information, it was determined that a numerical statement of the causes filed, decreed, or dismissed, before the native judicatories, added to the returns of the several zillah Judges, would be sufficient, and instructions were accordingly circulated to the several Judges, in obedience to the orders of Government. The Judges are in consequence disabled from furnishing general information on this subject; but the Judge of the zillah of Bellary has continued to transmit his returns in the the original form, notwithstanding the instructions intended for his relief from that necessity, and the Court remark that the number of suits for sums under ten rupees, adjudicated by the district Moonsiffs in that zillah, continue to outnumber those for a larger amount disposed of by the same authorities.

46. This resort to the district Moonsiffs by persons who, according to the existing Regulations, might, by applying to the village Moonsiffs, have their suits adjudicated at their own doors, may possibly be ascribed to ignorance, although such a conclusion is manifestly opposed by the length of time during which the system has been in operation. If it do not arise from ignorance, it will be naturally supposed to be an indication of preference. Other causes may have contributed, indeed, to produce such result, some of which may be properly noticed in this place as having incidentally attracted the notice of the Court. In the year 1817 there would appear to have been no village Moonsiffs exercising the jurisdiction vested in them by the Regulations in the zillah of Bellary. The causes to which this may be owing do not appear on the records of the Court.

47. An irregularity in the report received from the Judge of the neighbouring zillah of Cuddapah, for the month of January 1817, attracted the notice of the Court. The report had attached to it, in the nature of an appendix, the returns of suits decided or otherwise disposed of by the village Moonsiffs for the months of November and December preceding, and the requisition of the Court for an explanation of the irregularity was answered by a complaint from the Judge, of considerable length, against the conduct of the persons composing

* MEMORANDUM:

Ex Officiô Aumeens	42
Additional ditto	4
Total	46
Perhaps the respectable persons discharging the office of Moonsiff ought to be added to the number, whose courts are closed by the arrangements of the Commission: they were in number	250
making judicatories	296
which administered justice free from the charges of stamps, exhibit fees, and fees on summonses, for which the Commission have proposed to substitute district Moonsiffs	85
making a reduction of respectable judicatories against the country of	211

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ing the class of village Moonsiffs in the zillah under his charge. The number of these justices would appear to be unknown to the zillah Judge, and he in consequence assumes their number from certain assemblages of the population in agricultural pursuits, which he considers of sufficient importance to give exercise to the functions of a municipal Magistrate. The Court have not the means of ascertaining the accuracy or inaccuracy of the grounds on which Mr. Newnham proceeds; nor, perhaps, is it very material that they should determine this point, since it would appear to serve no other purpose than to form an estimate of the number of local judicatories which have omitted to furnish the returns required of them by the Regulations, and have thereby left their labours, in receiving and deciding civil suits, unknown and inappreciable. The statement framed by Mr. Newnham upon this supposition is subjoined.

Report, shewing the Numbers of Decisions by Talook Punchayets, Village Moonsiffs, Village Punchayets, the Village Reports received, the Village Reports, from the first beginning of Village Moonsiffs.

Months.	Village Moonsiffs.		Village Punchayets.		Total Number of Causes.	Number of Reports received.	Number of Reports due.	Number of Moonsiffs.
	Decrees.	Razeenamahs.	Decrees.	Razeenamahs.				
August	1	1	...	...	2	1	1,695	1,696
September ...	33	21	1	2	57	12	1,684	1,696
October......	107	40	5	4	156	27	1,669	1,696
November ...	95	51	20	3	169	43	1,653	1,696
December ...	96	38	12	7	153	103	1,593	1,696
January	65	20	5	...	90	107	1,589	1,696
February ...	55	28	2	...	85	100	1,596	1,696
March	47	19	...	...	66	59	1,637	1,696
April	7	...	...	...	7	76	1,620	1,696
Ditto	A Talook Punchayet.			1	1	...	...	...
	506	218	45	17	786	* 528	14,736	15,264
Since added, after Receipt of May Report:		Or, with the Beeheragh Farms ...					16,140	16,668
April	2	...	1	...	3			
May	4	...	...	...	4			

48. From this statement it appears, that the number of societies supposed to be severally presided over by a local Magistrate in the zillah of Cuddapah is 1,696, which ought to have furnished, from the month of August 1816 to that of April following, 15,264 reports; that the number actually received was 528, and that of them 316 were blank.

49. Mr. Newnham proceeds to remark on the statement in the following words: " October is the month from which it would be just to date the full " operation of the new village courts. Only a few Reddies were instructed of " such duties being enjoined them, it is believed, in August, and the selection " of the village Justice from out of several contending farmers in one village " was probably not accomplished in all parts until the end of September. The " report now transmitted shews a falling off in the village decisions from the " month of November, but whether this arises from the inattention of the " farmers of revenue to all the labours of the judicial office which the law has " lately created, or to the single duty of transmitting their reports to the talook " justice, the zillah court is unable to resolve with any exactness; but it is " presumable that, unless the zillah Judges or the talook Moonsiffs be entrusted " with

* Of these were blank 316.

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"with powers to enforce more discipline, regularity, and attention, in those "numerous petty courts, in a short time no reports whatever will reach the "zillah courts, from the one thousand six hundred and ninety-six, or more "Superintendents of courts, not only charged with great self-responsibility "and care for revenue, under the Collector, where the penalties of default "are immediate and severe, but likewise directed to distribute justice under "the jurisdiction of the zillah court."

50. Referring again to the statement, it will be observed, with respect to the 1,696 supposed village courts, which at the rate of one each per month, might have produced a total number of causes disposed of amounting to 15,264 in nine months, that the actual number reported is only 786. Of this number 506 are decrees by village Moonsiffs, and 218 adjusted by the parties; 45 are decrees by village punchayets, and 17 adjusted by the parties. One case only of a district punchayet occurred in the month of April, being the last of the statement By a subjoined note it appears that six decrees have been passed by village Moonsiffs in the months of April and May, and that one decree was passed in the former month by a village punchayet.

51. Mr. Newnham observes, that the twenty-eighth part of the reports has not been received, and that, even in this respect, the statement appears more favourable than the fact, owing, if the Court understand him right, to his having classed the work in the order in which it was performed, instead of according to the receipt of the reports. The want of control over these village judicatories on the part of the zillah court is considered by Mr. Newnham as a material defect in the system, which must render it inefficient. He describes the assessors averse to undertaking the part of the duty imposed on them, on account of its occasioning a contingent expense, for which no provision is made, and assigns this as a cause of their insubordination to their Sudra chiefs,* and of the non-transmission, also, of the prescribed reports, there having been some difference as to the person by whom the additional charge of framing and transmitting the reports is to be borne.

52. The zillah Judge describes the village Moonsiffs as not merely manifesting insubordination to the court, but as treating its orders with contempt, and holding opinions of its comparative powers and authority highly disparaging and inconsistent with the principles of regular government.

53. It will have been observed, that only one instance has occurred in nine months of a decree by a talook or district punchayet: at least, that only one of seven hundred and eighty-seven cases reported is a decision by a district punchayet. The Judge describes the endeavours he used to procure a more general resort to these tribunals, in which he was unsuccessful. It was, however, stated in the returns, that exertions had and would invariably be made, but that in no one instance had the persuasions used been successful. By these returns, and by other information, the principal cause assigned by the natives for their fixed aversion to resort to this manner of trial is represented as grounded on the difficulties attending appeals from wrongful decisions by it. The right of appeal from decisions in original suits is described to be sought after and adhered to by the natives as a benefit.

54. The Judge expatiates at considerable length on the demerits of the system introduced in 1816, arising from its complicated operation in cases where it may appear proper to supersede the award of arbitrators. No progress is made by such a proceeding towards the determination of the suit. The plaintiff, who, in such a case, has to complain of a nonsuit, and by application to the zillah Judge manifests most clearly the partiality of the award, and obtains its reversal, gains by his success, after the expenditure of time, labour, and money, a nonsuit, with liberty to commence proceedings *de novô* before another tribunal. This privilege was pointed out by the Sudder court, under date 14th December 1815, as likely to be thought by the natives to be a very costly privilege.

55. The Court do not deem it expedient to follow Mr. Newnham through the case of alleged abuse of authority on the part of a village Moonsiff, which he has

* The Curnums in the Ceded Districts are mostly Bramins.

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has noticed as having been laid before him, because it has not been brought to a termination, and cannot, therefore, be known in all its bearings; but it is due to Mr. Newnham to observe on this, as well as on a subsequent letter, bearing date the 8th September 1817, that his communications contain matter well worthy of consideration on forming a new code of law.

56. These two zillahs have claimed the first notice of the Court, as their civil administration, under the personal superintendence of the senior Commissioner, appeared to have formed the ground of the instructions under which the Commission have acted in the revision of the Judicial system. Complaints, however, of the irregularity of the village Moonsiffs are not confined to the zillahs of Cuddapah and Bellary. From the zillah of Canara, also formerly under the management of the senior Commissioner, the Court are informed, by a return made by the Register in charge, in the absence of the Judge, that "the village Moonsiffs are extremely illiterate, most of them being unable even to write or read," and the Shambogues or Curnums are described as in some instances refusing to assist them in writing their reports, on the ground of their revenue duties employing their whole time. This statement was subsequently confirmed by the Judge.

57. The Judge of the zillah of Vizagapatam represents the village Moonsiffs of the Ryaveram division as entirely neglectful of the provisions requiring a regular transmission of the returns of cases heard and disposed of by them, and remarks on the Regulations being destitute of any penal enactment which might enable him to enforce the observance of them. Similar complaints have been received from the zillahs of Trichinopoly and Verdachellum.

58. The Judge of the zillah of Darapooram, in a letter dated the 18th December 1817, stated that, in consequence of erroneous decrees by village Moonsiffs having come to his notice, he doubted of the advantage of their decisions being unappealable, and recommended that all decrees by village Moonsiffs should be appealable to district Moonsiffs, whose decision should be final. Being required to explain the nature and extent of the irregularity in the proceedings of the village Moonsiffs which had come to his knowledge, the Judge represented that petitions had been presented to him by defendants in five suits decided by the village Moonsiffs of Coimbatore, the station of the Court, complaining of unjust decrees, and that, on a perusal of the proceedings, the decrees appeared to have been given on insufficient grounds. These were the only occasions in which the proceedings of a village Moonsiff came publicly to the notice of the Judge, who observed that his inability to interfere in those cases might be the cause of no other representation being made to him.

59. The foregoing paragraphs contain all the information which has been furnished to the Court, regarding the manner in which the village Judges discharge their judicial functions, and it will have been observed, that the total amount of their known labours bears a very small proportion, indeed, to the aggregate of work performed by the judicial establishments: a fact of great importance, in determining the expediency, or otherwise, of extending a system, the principal feature of which is the organization of these village tribunals. It is not pretended, however, that the whole of the judicial labour performed by those justiciaries is exhibited in the statements which have been compiled from the materials in the office of the Register to the Court of Sudder Adawlut. The returns are too defective to be relied on, and it has been discovered that the half-yearly statements furnished by the zillah Judges, in conformity to the orders of Government under date 3d December 1816, differ so materially from the monthly reports with which they ought to correspond, as to lead to the belief that the instructions issued to the Judges for the compilation of those statements have been misunderstood. The errors will be pointed out, and explanation called for; but it would be inconsistent with the desire expressed by the Government of Fort William to receive an early communication, that this report should be detained until after the receipt of more accurate information. Indeed, it must be expected that the observations which the Court may feel called on to make, for the guidance of the subordinate authorities, will operate rather in preventing the recurrence of error in future statements, than in procuring a reform of those which have been actually received.

60. Reverting

60. Reverting to the village Moonsiffs, it is proper to pay some attention to an opinion which has been advanced, that it is not necessary to any public purpose that the Court should know the nature of the work done by these officers: that so long as the superior tribunals remained unincumbered with complaints against their proceedings, the legitimate conclusion must be, that they gave general satisfaction. It is unnecessary here to revert to the arguments stated in opposition to this opinion: it is sufficient to observe, that the legitimacy of the conclusion is distinctly negatived by the facts which have been detailed. As the Judges of the Sudder Adawlut have not correct returns of all the decisions passed by village Moonsiffs, that Court certainly cannot be said to know the extent of the good they may have done; but instances of their errors, for which there is no remedy, have been brought to their notice, and the mischievous consequences which may flow from such a source are strongly depicted in the correspondence of the Judge of Cuddapah.

61. The aid which the village tribunals would appear to have contributed, in expediting and improving the administration of civil justice, so far as the returns shew, has been comparatively inconsiderable; and, so far as mere numerical returns can be relied on, it would seem that a preference has been manifested by the natives towards the district Moonsiffs, officers selected by the zillah Judge, it is to be presumed, on account of their known qualifications to discharge the duties devolving upon them. The Judges beg leave to refer to the opinions which they expressed of the advantages of such a selection, in the paper submitted to Government under date the 14th December 1815, as they would appear to derive confirmation and support from the apparent confidence reposed in those Judges by the natives.

62. The appointment of district Moonsiffs, indeed, formed a branch of the original system of judicature established in the year 1802. It was enlarged and improved in subsequent years, and was brought into extensive operation, as has been already shewn, before the year 1816. The enlargement of the jurisdiction of the district Moonsiffs in suits for personal property, and its extension to the cognizance of disputes regarding real property of limited value, constitute the further improvements of that year. The number of these are greatly reduced, yet the suits decided by these judicatories have been very numerous, compared with those disposed of by the village Moonsiffs, whose numbers are unknown. If, then, the administration of justice has been expedited and improved by the aid of the district judicatories, it is the result of an extension of the original plan of judicature, not of the introduction of any new principles. The steps by which the establishment was conducted, from its institution to a stage of advancement admitting of the extensive employment of respectable native agency in the discharge of judicial duties, with facility and advantage to the public, have been pointed out.

63. The further improvement of the native branch of the judicial establishments has been long contemplated, and the measures which, under the sanction of Government, have been adopted at the College of Fort St. George, for exciting the natives to prosecute the study of the sciences, and to prefer claims to employment in the public service on the solid ground of real and substantial acquirements, have appeared calculated to accelerate the improvement, and to ensure its future progress and more extensive operation. The declaring a certain number of fixed offices, with salaries annexed to them, to be eventually within their attainment, may tend to promote the same end. Of the persons nominated to the offices recommended by the Commission, the Judges of the Sudder Adawlut possess no knowledge.

64. The object of the measures adopted on the recommendation of the Commission, was to reduce the expense of the judicial establishments, by constituting native tribunals, which should take cognizance of most of the suits arising in the country, and thereby relieve the European Courts from business, in a degree which might admit of a diminution of the number of the zillah Courts. This object, and its success in the instance of Guntoor, are announced to the native subjects of the British Government in the preamble to Regulation V. 1818, in which "the Regulations lately enacted are declared to have rendered a "separate Court of judicature at Guntoor no longer necessary." The first effect of the system, appears to have been, to suspend the resort of suitors to the

European

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European tribunals, every avenue to which is guarded by heavy charges, and to divert them to the native courts, where a comparative relief from expense forms a kind of bonus to litigation; but there are not yet sufficient grounds for concluding that this effect will continue.

65. Referring to the appeals from the decision of the native tribunals, as exhibited in the statement still under consideration, it must be observed, that the column of native Commissioners includes appeals from the Sudder Aumeens, until the enlargement of their jurisdiction in the year 1816. The number of decisions by the zillah Judges on such cases progressively increased up to that year. In the following year, being the last of the statement, there appears a material diminution of the number in this column; but the decisions on appeals from the Sudder Aumeens, increased from thirty-nine in the year 1816, to four hundred and forty in the following year. The adjustments by the parties after appeal to the zillah Judges were seven in the year 1816, and thirty-nine in the year 1817.

66. No appeals appear to have been decided on by the zillah Judges from the district Moonsiffs in the year 1816. In the year 1817 they amounted to seventy-seven, and the number adjusted after appeal was twelve. The numbers decided from the general file of appeals in the zillah courts, including those from the zillah Registers, during the series of years embraced by the statement, are given below:

In the year	1813 the cases were	623
	1814	853
	1815	1,092
	1816	1,154
	1817	1,204

The increase of decisions on appeals would hence appear to be progressive. The principal increase in the last year is in the appeals from the decisions of Registers, the decrees on which, in the year 1816, were one hundred and eighty-six, and the adjustments thirty-eight, but, an examination of the detailed statement, presents no ground for particular remark. The future progress of the file of appeals will indicate the degree of relief which may have been substantially afforded to the zillah courts.

67. It will be collected from the foregoing details, that although there is no precise information before the Court regarding the portion of the time of the zillah Judges which may be still occupied in duties connected with the criminal department, the essential relief afforded to them, in this respect, is considered to be limited to the exemption from the task of perusing the correspondence of the police officers regarding their ordinary duties, and that the records by no means evince that the investigations, which the criminal Judges are required to make in cases of importance, have been at all facilitated by the arrangement for transferring the more limited duties of the magistracy to the Collectors of the Land Revenue. The observations, indeed, made by Mr. Skinner, the second Judge late on circuit in the centre division, lead to a very different conclusion. His words are as follow: "In all cases of "heinous nature, described in Section 27, Regulation XI. A. D. 1816, the "Tehsildars are directed to the criminal Judge, and the latter is precluded, "by Section 55, from issuing any order to the police officers. Supposing, "therefore, the proceedings he received to be defective, which is found to "be but too frequently the case, he has no means of getting the defect sup-"plied, except by the circuitous and tedious process of a correspondence to "be carried on through the Magistrate, who may be too far distant, or not "at leisure to give the immediate attention to the requisition the case may "require; and, as the proceedings have not been before him in the first in-"stance, the criminal Judge must in his letter enter into a full detail of the "case, to enable the Magistrate to judge of the nature of the evidence re-"quired, as also of the measures to be pursued in order to obtain it." These remarks arise out of the observations actually made by the second Judge in the cases of his late circuit; and it may be deserving of serious consideration, whether, under the view here given of this part of the operation of the system, the relief afforded to the criminal Judge, by his exemption from the charge of police, may not be more than counterbalanced by the difficulties

which

which he may experience, and the time he must employ in obtaining, in many cases, the information necessary to enable him to bring the matter to an issue.

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68. But whatever time may have been saved to the zillah Judges, by withdrawing from them the superintendence of the details of the police, the application of it would not appear to have been given to the adjudication of civil suits, the numbers decided by the Judges, Assistant Judges, and Registers, having fallen off in the fourth and fifth year of the statement. The Court are, however, of opinion, that a longer experience is necessary to determine whether the causes that may have produced the diminution of business before the European tribunals be permanent or temporary. The rapid increase of decisions on appeals from the decrees of the Sudder Aumeens in the second year of the system, as well as the number furnished by the district Moonsiffs in the same year, are indications of an operation, the extent of which cannot yet be estimated.

69. It was not to be expected that any thing material should appear against the administration of the village Moonsiffs during the first year of their transaction of business, which may be taken to be the year 1817; for, as explained by the Judge of the zillah of Cuddapah, it was as late as the month of August 1816, before they could be apprized that the adjudication of civil suits was connected with the other duties of their office. The barriers by which they are fenced round against accusation must prevent the zillah Judges from receiving charges against them of malversation in office, unless coming under the precise definition of wilful corruption, and few will be found to prefer the charge under the conditions prescribed in the Regulations. In fact, to convict a village Judge of corruption, may be pronounced to be next to impossible, for he is under no obligation to confine himself to any fixed emoluments, and there is no regulation to prevent him accepting presents from his friends. He must be but a few degrees removed from an idiot, to avow a corrupt motive in accepting what may be tendered to him, and the only ground on which corruption can be fixed upon him is *proof to the satisfaction of the Judge*. This provision is much too vague and indefinite for any man of common reflection to trust to, when he finds, hanging over the probable failure of his accusation, a sentence to pay full costs and such damages to the village Moonsiff as may appear equitable to the Judge, together with a fine equal to the amount of the corruption charged by him, while, in all probability, the bribe will have been paid by himself.

70. This explanation may account for the inability of the Court to furnish any information, as to the heads of the villages deriving indirect emoluments or advantages from undertaking the duties of the double office of civil Judges and police officers of the villages; but, with regard to any ground which there may be for supposing that they do derive indirect emoluments or advantages, the Court must refer for their opinion to the experience of the world, as to the common effect which impunity in malversation has on the mind of uneducated men. In their proceedings, under date the 14th December 1815, the Court observed, "there is nothing to prevent a Collector from forming every succeeding lease with a different person; and if the judicial office go with the farm, the Court see no reason to doubt that it will be regarded as a part of the farm, and that the most will be made of it."

71. In concluding their remarks on the probable operation of the village courts, with reference particularly to the questions on this head put by the Supreme Government, and which the scanty means of information possessed by the Sudder Adawlut do not enable them more satisfactorily to reply to, the Judges of the Sudder Adawlut cannot avoid submitting the following remarks, to which the circumstances in the former parts of this report have given origin.

72. It has been deemed necessary by the framers of the new Regulations to define the duties, to specify the powers, and to prescribe the course of proceeding to be adopted by village Moonsiffs, in the discharge of every part of their judicial functions. The system so laid down for their guidance assimilates

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in its general scheme, and in very many of its particulars, to that enacted for the trials of civil suits before the European tribunals.

73. The limitation of time, beyond which a suit shall not be instituted, excepting under certain stated circumstances; the exclusion of suits of particular descriptions from the cognizance of Moonsiffs, although the amount sought to be recovered would bring them within their jurisdiction; the specification of the persons who alone may be allowed to represent parties in the village courts, and the description of the instruments which shall convey such authority to represent them; the rules prescribing the nature and contents of the written pleadings of the parties on which the Moonsiff shall proceed; the measures of precaution to be taken by the Moonsiff, to ascertain that due notice of a suit has been given to a defendant before he shall proceed to try a cause ex-parte; the furnishing of copies of the plaint to the defendant and of the decree, with certain formalities, to each of the parties; the mode of obtaining the evidence of persons whose rank is to be considered by the Moonsiffs as relieving them from the necessity of personal attendance before him; the limited authority to fine for contempt; the solemn injunction to the Moonsiff to give judgment according to justice and right (a most important direction to a Judge, from whose tribunal there is no appeal); the specification of what the decree shall contain, and in what form it shall be prepared; the limitation of interest which a Moonsiff may decree, the rate of which, however, is not stated, but only referred to, as being prescribed in a Regulation which forms part of the judicial code; the peculiar and complicated process under which only the Moonsiff's decrees are to be executed; the rules for a register of all sales in satisfaction of such decrees to be kept by the village Curnums, and for a return to be made periodically of all fines levied by the Moonsiffs, with the names and conditions of the parties, and the reasons for which the fines were imposed; the rules for the non-admission of exhibits in evidence, if not legally stampt; these, and several other provisions explicitly laid down in the village Moonsiff Regulation, must be considered as essential to the due performance of these functions, and to the security of the persons amenable to their jurisdiction. Had they not been so considered, they would not have been prescribed by legislative enactment to a tribunal avowedly of the most simple construction. The greater part of these rules, however, must be novel to the head of a village, who though supposed to have administered justice in former times to the members of the village community, may be presumed to have been unshackled by many of the before-recited ordinances, while his acts were not excluded from revision, as they now are, by Section 4, Regulation IV. of 1816. It has been seen, that village Moonsiffs cannot always read, and that the Curnums who can will not always attend. The provisions of the law, it is natural to remark, may therefore be frequently neglected or infringed from ignorance; but whether infringed from ignorance, or from a corrupt motive, the breach of them is committed with impunity, for the law has provided no punishment for the non-observance of its commands. Of the probability of the neglect and breach of the rules necessary for the protection of the community, an estimate may be formed from the ascertained fact, that the only ordinance of which the observance or neglect can be known to the European authorities in ordinary course, that which prescribed that periodical returns shall be made of the suits instituted and disposed of by adjudication, or otherwise, before the village Moonsiffs, is most grossly neglected. The statement furnished by Mr. Newnham, and inserted in a former part of this report, shews that the experiment of disobedience was at first tried with caution, and that success and impunity confirmed its practice. If the head of the village be ignorant, it is not likely that the Members of the community will be more learned, or that they will rightly apprehend the limits of their chief's power, to whom they know the authority to fine and imprison has been granted with other powers, and many and long directions, by enactment or regulation of the Government.

74. The Court of Sudder Adawlut cannot conceal from themselves, and they are not justified in withholding from the Government these considerations, of which the necessary result appears to be, that the most flagrant abuse of authoriy may, and probably does exist, without the power of remedy by the European authorities,

authorities, because the evil could scarcely by any possibility come before them. The necessity before stated, under which some judicial officers have been compelled to refuse a hearing to complaints which the Regulations excluded from their cognizance, must lead to the abandonment of attempts to seek redress.

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I have, &c.

R. CLARKE,
Acting Register.

Sudder Adawlut, Register's Office,
21st September, 1818.

REPORT *of the late* JUDICIAL COMMISSIONERS,
Dated the 15*th October* 1818.

To the Chief Secretary to the Government, Fort St. George.

SIR:

Report of late Judicial Commissioners, 15 Oct. 1818.

By Mr. Secretary Hill's letter of the 19th August 1817, the late Commission of Internal Administration was directed to submit a final report, " distinctly referring to all their past proceedings, and explaining to what extent the Regulations were then in practical operation; what particular or local measures may, in certain cases, remain to be adopted, for the purpose of giving them practical operation; and what prospective course of proceeding ought, in their judgment, to be pursued with regard to them."

2. A detailed report was, in consequence, drawn up by the Second Commissioner, in communication with the First, referring to our past proceedings, and shewing to what extent the new system was in actual operation, and was transmitted to Government on the 21st March last. The First Commissioner, who was then absent on service, having lately returned to the presidency, we have taken Mr. Secretary Hill's letter into consideration, with the view of offering such observations regarding the different points alluded to in it, as seem to be still necessary, in addition to what has been said in the Second Commissioner's report.

3. The proceedings of the Commission, since its first establishment, were founded on the orders of Government of the 1st March 1815 and 25th May 1816, issued in consequence of the instructions of the Honourable the Court of Directors of the 29th April 1814 and 20th December 1815. The Regulations which the Commission was by those orders required to frame, for the modification of the existing system of civil and criminal judicature, were, after various delays, arising from causes already stated in former reports, passed by the Governor in Council, between the 17th May and 30th September 1816.*

4. The views of the Honourable Court, in ordering the modification of the existing system, were generally to facilitate the administration of justice, by relieving the European Judges from too great a pressure of business, by transferring a part of it to the heads of villages and the native authorities, and the office of Magistrate to the Collectors, and likewise to exempt the inhabitants, as far as possible, from the expense and inconvenience of resorting to distant tribunals, by giving them others nearer home, more suited to their own customs and ideas.

5. These views of the Honourable Court, as far as their orders extended, were carried into effect by the enactment of the village Moonsiff and village Punchayet Regulation, by which petty suits and suits for personal property, without limitation as to amount, may be decided in the village in which they arise, by the Potail or the punchayet; by the enactment of the District Moonsiff and District Punchayet Regulations, which give to the Moonsiff the cognizance of suits to the amount of two hundred rupees, and by the Punchayets, suits

* Vide Regulations IV, V, VI, VII, VIII, IX, X, XI, and XII, of 1816.

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suits for real and personal property to an unlimited amount; by the Sudder Aumeen Regulation, which gave to the law officers of the court referee jurisdiction in original and appeal suits to the amount of three hundred rupees: by the Boundary Disputes, &c. Regulation, which placed the cognizance of such disputes under the Collector and Magistrate; by the Magistrate Regulation, which transferred the duty of that office from the zillah Judge to the Collector; by the criminal Judge Regulation, which continued to the zillah Judge the duty of committing offenders for trial by the court of circuit; and by the Police Regulation, which vested the management of the police of the country in the Collector and Magistrate, his Tehsildars and other native agents, and the heads of villages, aided by the village servants.

6. Although these Regulations were all passed before the end of September 1816, little is yet known of their effect, and some years must elapse before any correct judgment can be formed on the subject. Their practical operation, as far as it could be ascertained from official returns, to the 1st January 1818, was shewn by the Second Commissioner, in the statements which accompanied his letter to the Chief Secretary of the 21st March, and his letter of the 13th April last, transmitting his answers to the queries received in the Secretary to the Supreme Government's letter of the 18th November last. By the Statement No. 6 it appears, that the number of suits settled by the zillah and native courts has greatly increased under the new system, as may be seen in the following Abstract:

Years.	By the Judge, Assistant Judges, and Registers.	By the Native Judicatories.	Total.
1813......	4,663	24,888	29,551
1814......	5,317	26,717	32,034
1815......	7,928	30,687	38,615
1816......	7,195	39,714	46,909
1817......	4,749	66,302	71,051

In the year 1816 both the new and the old systems were in operation, but from 1813 to 1815 inclusive the old system only, which, as it had then lasted longer, may be supposed to have been more efficient than at any former period. Yet, notwithstanding this, in 1817, the first year of the operation of the new system, the total number of causes settled is nearly double that of any year of the old one.

8. It also appears, from the following abstract of the Statement No. 5, that the number of causes depending before the zillah Judges and Registers has been reduced to 3,565, or little more than one-half of its former amount.

Depending before the zillah Judges, Assistant Judges, and Registers,

1st January 1814...Number of causes...6,247
1815..........................6,648
1816..........................6,476
1817..........................4,603
1818..........................3,565

9. These two statements likewise shew, that though the number of causes decided by the native courts is more than double, the appeals are fewer than in former years. The number decided by the village Moonsiffs, up to the 31st December 1817, was 10,744, and by the district and village punchayets, 457. The business done by the village Moonsiffs or Potails, though it is much less than it would have been had they acted according to their ancient usage, unfettered by any Regulation, is yet, when all circumstances are considered, fully as much as could have been expected. Several causes have combined to retard the progress of the system under the village Moonsiffs: the forms and length of the Regulation, the pains, penalties, and prosecutions which it denounces, their fears of the European Courts, and their consequent reluctance to engage in any thing which may be likely, in the most remote degree, to bring them

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them before these tribunals. The Regulation, it is true, is not a long one, and does not authorize any penalties, to which the Potails were not, in similar cases, always subject, under the native Government; but to men like them, unaccustomed to written rules, every Regulation appears long and intricate, and the same penalties to which they know they were liable at all times for misconduct, seem to them much more formidable when presented to their view in the shape of a written law.

10. The Collector of Bellary mentions the activity of the district Moonsiffs in drawing suits to their own courts, as one of the chief causes of their not coming into the village courts. There can be no doubt but that this is the case, and that it will be so until the Potails in general acquire more confidence, when the effect will become gradually less. The progress of the village Moonsiff Regulation will be slow in many districts, but we are satisfied that it will gradually increase. Whenever one or two head Potails begin, others will do the same: they will not act all at once, merely upon the sanction of the Regulation, but will be guided by their old habits of following the example of their superiors. We have reason to believe, that they now settle many petty suits without the necessity of bringing them to a formal trial, as the restoration of their former authority enables them to induce the inhabitants to adjust amicably many trifling matters which would otherwise be carried before the courts.

11. The same causes nearly which have impeded the progress of the village Moonsiffs have affected that of the district and village punchayets. The total number of suits settled by them to the 31st December 1817, as already observed, amounts to 457. It is rather surprising, that there should have been so many after the long disuse of the punchayet, the belief of the natives that it had been suppressed by law under the old Regulations, and the opinion expressed by several European authorities, that the natives would not resort to it on any account. It is also to be remembered, that the having recourse to the punchayet is voluntary with both parties, and that the district Moonsiff has not the same motive as the Tehsildar, by whose orders it was formerly assembled, to encourage its employment, but, on the contrary, that it is his interest to discourage it, in order that the greater number of suits may be decided immediately by himself.

12. District Moonsiffs are, in general, well qualified to discharge their duties. Many of them have served in the Judicial and Revenue departments before their appointment, and are men of business. Their knowledge, their skill, and activity, animated by self-interest, enable them to decide a great number of suits within a very short period. As their several courts are not at any great distance from any of the villages under their jurisdiction, and as the inhabitants know that their suits will be settled in them with as much expedition as possible, they resort to them in crowds. The great mass of the litigation of the country cannot be in better hands. The petty suits originating in agricultural concerns, and other local matters among Ryots, might be more conveniently settled in the village, but almost all other suits may with advantage be carried before the district Moonsiffs. Their decisions are not only quick but are likewise, probably, for the most part just, as may be inferred from the small number of appeals against them. As long as they continue to discharge their duty faithfully, the greater part of the business of the civil justice of the country will continue in their courts. There is little danger of any material falling off among them, as long as the present system continues. The existence of the other tribunals will be a great check upon them, for whenever they become notoriously negligent or corrupt, the inhabitants will, according to the nature of their suits, resort to the village Moonsiffs and punchayets or to the zillah court. The district Moonsiffs will, therefore, be restrained from neglecting their duty, not only by the fear of losing a great portion of their fees, but of being suspended from office by the zillah court. The court, though it now decides fewer small causes than formerly, makes ample amends for the deficiency, by the beneficial influence which it has in obliging the district Moonsiffs, by whom they can be settled with much more convenience to the parties, to discharge their duty properly.

13. The effect of the new system on the administration of civil justice, as far as it can yet be ascertained, has been to diminish nearly one half the num-

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ber of suits depending before the zillah Judges, to double the number decided by the native courts, to enable a part of this number to be settled in the very villages in which suits arose, and to save to the inhabitants both time and money, by their suits being decided both more expeditiously and nearer home, and by a portion of them being exempted from all fees and charges whatever.

14. With regard to the modifications required to be made by the Resolutions of Government in the administration of criminal justice, it has been already remarked that they have been carried into execution by the passing of the Magistrate, Criminal Judge, and Police Regulations.* The effect of these Regulations, as far as it was known from official documents, to the 1st January last, has been detailed by the Second Commissioner † in his answers to the queries of the Supreme Government, and it seems scarcely necessary to add any thing more on the subject. The statements then forwarded shew that the number of crimes of a heinous nature, ascertained to have been committed in 1817, was greater than in some, and less than in others of preceding years, from 1813 to 1816, both inclusive; that the number of persons apprehended for such crimes was greater in 1817 than in any one of the preceding years, and likewise greater in proportion to the crimes committed; and that the number of criminal cases, and of prisoners committed for trial before the Judges of circuit, was less than in any of the former years, and that the number of criminal cases depending before the Magistrates and criminal Judges was much less in 1817 than in the preceding years. The statements above alluded to are here enclosed to save the trouble of reference.‡

15. No correct inference can be drawn as to the effect of the system, either in the prevention or punishment of crimes, from such limited data as a comparison of its operation, for one year, with that of three or four years of the old system. As the number of persons apprehended is greater in 1817 than in the preceding years, being 4,368 in 1817, and 4,190 in 1814, the highest of those years, it may be said that the police has become more efficient; but as the computed number of persons concerned in crimes is 8,692 in 1817, and only 7,124 in 1814, an opposite conclusion may be formed. The same opposite inferences may be drawn from the comparison of the number of prisoners committed in 1814 and 1817, which in 1814 is 2,148, and in 1817 only 1,038. It may be said, either that the police has been more remiss in apprehending criminals engaged in the larger class of crimes, or that a smaller number of persons have been concerned in this class than formerly, there is, however, one very important point in which no difference of opinion can arise, namely, the great diminution of criminal cases depending before the Magistrates and criminal Judges, for the number of such cases was six hundred and six in 1814, and only eighty-nine in 1817.

16. The proportion of the number of persons computed to be engaged in crimes to that of persons apprehended, will probably always be higher under the new than the old system; because it is from the village servant that all superior police officers must derive their information; because these servants acted reluctantly under the double authority of the zillah Judge and Magistrate, and the Collector disliked the Tannahdars, and we believe reported nothing that they could with safety withhold; and because, being now, according to ancient usage, under the undivided control of the Collector and Magistrate, they bring forward without hesitation whatever they know, and because the present Magistrate has much more ample means, through his numerous revenue and police servants, of discovering any neglect on their part than the late one ever possessed. But as it is evident that it is much easier to discover offence than to apprehend the offenders, the disproportion between the number of crimes committed and of criminals apprehended, must generally be greatest where the proportion of crimes reported approaches nearest to that of the whole number of crimes actually perpetrated.

17. But though we are of opinion that the Magistrate has now much better means than formerly of discovering offences, we are far from thinking that many do not still escape his notice; some from the connivance, and others from the negligence

* Regulations IX. X. and XI. of 1816. † Letter to Government, 13th April 1818.
‡ Statements A, B, C, not printed.

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negligence of the police officers. No system can ever prevent the occasional occurrence of abuse of authority and neglect of duty, among so numerous a body as the Police officers of an extensive country; but we believe that the present one is better calculated to check this evil than the old. In Coimbatore, where the old system was superintended by a most intelligent Magistrate, and when its supposed efficiency induced its recommendation, as an example for other zillahs, it was found by the Commission appointed to investigate the affairs of that district in 1815, to have been attended with great abuses, and that the Tannahdars had, without the knowledge of the Magistrate, summoned persons before them who had lost their husbands or children by accidental death, and extorted money from them by threatening to charge them with murder. The records of the Foujdarry Adawlut, no doubt, contain many instances of the misconduct of the former Police officers. We are not so sanguine as to suppose that abuses will not take place among the native officers of civil as well as of criminal judicature, but we are confident that they can never, under the present, reach to such a height as under the old system, when in Canara a body of native Commissioners, amounting to fifty, were at once suspended and dismissed.

18. The operation of the present system has been too short to furnish any sure grounds for estimating its effects. No transfer of the police from one authority to another, nor even any improvement in its efficiency, can suddenly diminish the number of crimes, though it may facilitate the apprehension of the criminals. Crimes depend on the state of society, of the country, of peace or war, of plenty or scarcity, and other causes, and can only be reduced in any material degree by the continued action of an improved system for a course of years. Statements should be cautiously adopted as criterions of the effect of the Regulations: they vary in different years, and it is only the result of a long series of years that can be trusted to with safety.

19. There are, however, some points, in which it may be confidently asserted that the change of system has already been attended with many advantages. It has, by freeing the criminal Judges from the superintendence of the police, permitted them to devote more time to the investigation of crimes of a higher nature, and to get through their business more readily, as is obvious from the small number of cases depending before them on the 1st January last, compared with that of former years. It enables the greater part of petty offences to be settled on the spot by the heads of villages and Tehsildars, so that they do not go even to the Magistrate, whereas they were formerly carried to the distant tribunal of the zillah Judge, to the greater vexation of the inhabitants, as in some zillahs the number of the litigants and their witnesses frequently amounted, in the course of the year, to several thousands, and it has relieved the inhabitants in general, but more particularly the heads of villages and the village servants, from the odious authority of the Tannahdars and Darogahs, and their interference in their domestic disputes. The late system of police, which enabled the Tannahdars to exercise control over the village servants and potails, in fact placed the dregs of the people over the most respectable class of them, and gave rise to many abuses and to very general discontent. The relief of so numerous and useful a body of men as the heads of villages and village servants from such a state of dependence on their inferiors, is of itself a very important benefit to the country derived from the change.

20. The saving of expence produced by the new Regulations in the departments to which they extend cannot be easily ascertained. In the answers of the Second Commissioner to the queries of the Supreme Government, it is recommended * that the Accountant General should be directed to prepare a comparative statement of the charges for the last five years in the Revenue, Judicial, and Police establishments, pointing out such as are occasioned by circumstances of a temporary or extraordinary nature, and consequently do not properly come under those permanent heads of disbursement which can alone furnish a fair comparison. It is also observed, in the same document, that the principal expence attending the new system is the establishment of district Moonsiffs, and

* Paragraph 5.

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and the chief reductions, either proposed or actually made, are the abolition of the court of Cochin and four Assistant Judgeships, and the Darogahs and Tannahdars and other police servants.

The increase and decrease under these several heads is as follows:

Actual decrease by the reduction of police Darogahs, Tannahdars, &c.	33,816	
Proposed decrease by the abolition of the Cochin Court, and four Assistant Judgeships	30,409	
Proposed decrease in the zillah Adawlut establishments	12,000	
Total actual and proposed decrease		76,225
Increase by the establishment of district Moonsiffs		22,968
Total actual and proposed decrease		53,257
We may add, also, the saving from the court at Guntoor having been abolished in consequence of the new Regulations, as stated in the preamble to Regulation V. 1818, which may be estimated at least at		15,000
Star Pagodas ...		68,257

21. No very great diminution of expense can be expected while the present number of zillah courts remains. The pay of the native servants is so low, that the dismissal of a few would hardly make any perceptible difference in the general expense; the dismissal of any great number would injure the efficiency of the different departments from which they were, and would still produce no material saving. The European is the expensive part of the judicial establishment, and is the only one by whose modification the amount of the charges can be considerably diminished. However much the business before the zillah courts may be diminished, a certain proportion of those courts will always be indispensably necessary, though unquestionably not the same number as at present. If not a single original suit were to come before them, they would still be of the most essential use to the country, as courts of appeal and criminal courts, and still more perhaps by the salutary check which they would maintain over the district and village Moonsiffs, by which they would compel them to perform properly those subordinate judicial duties which can by no other agents be so conveniently discharged.

Sic orig.

22. On the subject of expense it may be remarked, that one main cause of the difficulty in forming a correct estimate of it originates in the frequent reductions and augmentations which have been found unavoidable in the Collector's establishments, totally unconnected with the modifications of the Judicial system. In some districts savings have been effected, by reducing some useless offices which existed under former Governments, and in others it has been deemed advisable to restore offices or to increase allowances, which had in the lapse of time been too much reduced. The Collector of Chittoor, in his letter of the 26th of February 1815 to the Board of Revenue, before the orders of Government for the modification of the system were issued to the late Commission, very properly recommended an increase of allowances to a considerable number of his Curnums and Talliars. It becomes necessary, therefore, in a comparison of expense, to distinguish carefully between the increased diminution resulting solely from the modification of the system, and from other causes.

23. There is one saving which no statement can shew, but which is of great benefit to the country, namely, that which accrues to the inhabitants from having their suits settled nearer home, at a smaller charge, and in much less time than formerly

24. Having stated what we consider to have been the effect of the new Regulations, during the short period of their operation, we shall now submit our opinion regarding such alterations or additions as seem to us calculated to render them more efficient. We have, on a former occasion, observed, that we deemed the village Moonsiff Regulation to be sufficiently comprehensive in its definition

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definition of the head of the village, to be applicable to villages of every description, but that if doubts were entertained on the subject, a supplementary Regulation might be framed. All that is necessary in such a Regulation is merely to authorize the Collector, in cases where he thinks that none of the persons described as heads of the village are to be found, to appoint such other persons to the office as he may deem most suitable, according to the principle of the Regulations.

25. We still continue to think that the measure formerly recommended by us, of extending the cognizance of the district Moonsiff's jurisdiction from two hundred to suits of three hundred rupees, should be adopted, and also that fees should be abolished on all suits not exceeding ten rupees, which come before them, as the few appeals from them shew that their decisions are in general satisfactory. The extension of their jurisdiction will be convenient to the inhabitants, and the abolition of the fees on suits not exceeding ten rupees will take away the motive of drawing such suits into their own courts, for which purpose they are said by the Collector of Bellary to use every exertion.

26. The above are the only alterations that seem to us advisable in the rules for the administration of civil justice. In the criminal Regulation very little seems to us to be wanting. The Magistrate of Chittore proposed an extension of the powers of the Magistrate and his servants, and the addition of the criminal Judge. We do not think that any additional authority should be given to the Magistrate, until longer experience shall have shewn whether it be indispensably necessary. We would, however, recommend that, in all cases of petty offences and of petty thefts (not exceeding in value half or one rupee), he should be authorized to dispense with record, and that in every case whatever of petty offence or petty theft, he should be at liberty to dispense with oaths, wherever he might deem it necessary. This would save much useless writing, and facilitate the dispatch of the more important part of his duty, and it would also render oaths more sacred, which from their being resorted to in trivial matters, so much beyond the ancient usage of the natives, has had the baneful effect of destroying almost all their weight. Many of the petty thefts are committed by persons who are not professional thieves: they perhaps steal a handful of betel or some other trifling article, which is easily done in the markets of this country, often held in the open fields. To make such things matter of record before an European magistrate, is an unprofitable waste of the very limited means we must ever possess of employing European agency in India.

27. In every department, whatever can be best done by native servants should be entrusted to them. The business of the European officer should principally be to control and direct properly the labours of the natives under him. In order to enable him to employ his time in the way most useful to the public service, he should be exempted from the necessity of devoting any part of it to the observance of useless forms, or to the furnishing of useless records. These remarks are as applicable to the Collector as to the Magistrate, and we have no hesitation in saying that the Collector ought not to be required to furnish a document so utterly useless as a diary, which must every day occupy a considerable portion of time, which no person who understands revenue affairs would ever consult for information, and which we believe has never led to the detection of abuses, even in those districts where they have been greatest.

28. It was the intention of the late Commission that the Magistrates should have authority to refer causes of petty thefts and petty offences, brought before them in the first instance, to their Tehsildars or other subordinate officers, for investigation on the spot, and that their Assistants should, in every part of their respective zillahs, exercise such portion of the magisterial functions as might be delegated to them, as well when absent from, as when present with Magistrates. If it is thought that the authority intended to have been given by the existing Regulations, the omission ought to be supplied by a supplementary Regulation. *Sic. orig.*

29. Though the native Servants' Regulations * do not come immediately within the province of the Commission, yet as they encumber the dispatch of public business in almost every department, we take the liberty of recommending

* Regulation I. 1809, and Regulation V. 1811.

Report of late Judicial Commissioners, 15 Oct. 1818.

mending that they be rescinded. The cause and the manner of the dismissal of servants can never, without great injury to the public service, be made the subject of legislation; all that is necessary to be done, in order to check the abuse of authority in the wanton dismissal of servants, may be effected by orders from the heads of the different departments, and those orders should not descend to servants having less than fifty rupees monthly pay.

30. One great defect in the existing Regulations, formerly noticed by us, still remains to be remedied: we allude to the power vested in the Sudder and Foujdarry Adawlut, of deciding, without appeal, on all doubts which may arise respecting the meaning of the Regulations. As there is no regular channel of representation to Government against their opinions, there can be no means of correcting them when erroneous. Such a power, whether vested in two men as at present, or in a greater number, seems to be inconsistent with the spirit of legislation. In this country the Governor in Council is both the legislative and the executive Government, and the proceedings of every subordinate department should reach him and be subject to his control. This was the case when the original code of Regulations was framed. The court of Sudder Adawlut was then composed of the Governor and Council, and the power of final decision was therefore then lodged in its proper place. We would recommend, that this power should be again placed where it was at first, and that, for this purpose, a Regulation should be passed, restraining the Sudder Adawlut from issuing any order on the interpretation of any doubtful meaning in any part of the code, until it should previously have received the sanction of Government, and authorizing the Boards of Revenue and Trade to appeal to Government in all cases where they think that an interpretation has been given injurious to the interests of their respective departments.

31. It will observed from what has been said, that the few slight modifications of the Regulations of 1816, which we propose, do not in any way affect their principle, but are calculated solely to render their operation more extensive. We do not think that it would be safe to make any material changes, founded upon opinions formed without sufficient experience of their effects, and differing from each other. The system has been little more than twelve months in operation, and all that is yet known is that more business has been done and less remains on hand than under the old one. It can never acquire solidity or operate with due effect, while it is continually shaken by the agitation of changes. It ought not to be unhinged by any premature alteration, but to be pursued steadily for a period of six or seven years, as the only means of shewing fairly how far it is calculated to answer the ends for which it was established.

We have the honour to be, Sir,

Your most obedient servants,

(Signed) THO[s]. MUNRO, late Commissioner.

GEO. STRATTON, late Commissioner.

Madras, 15th Oct. 1818.

General

General Abstract Statement of Appeals and Causes determined or adjusted by the Provincial Courts of Appeal during the Year 1814, formed from the Monthly Abstract Registers furnished by them, conformably to Section 13, Regulation XIII, A. D. 1802; shewing also the Amount Value of Property held under Decrees passed by those Courts in original Causes, to 31st December 1814.

Courts.	Appeals		Causes, tried in the first instance,		Total.	Amount decreed in original Causes.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Pagodas.	F.	C.
Centre Division	73	3	4	2	82	27,687	38	34
Northern Division ...	27	7	5	5	44	1,10,280	33	67
Southern Division....	18	2	15	...	35	6,046	22	2
Western Division	21	1	13	...	35	13,313	39	33
Total...	139	13	37	7	196	1,57,328	43	56
					or £ Sterling	62,931	11	9

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
28th February 1815.

General Report on the Reports furnished by the Provincial Courts of Appeal, conformably to Section 14, Regulation XIII, A. D. 1802, of Causes and Appeals remaining undecided in their Courts on the 1st January 1815, shewing the Estimated Amount of Property in Litigation in those Courts.

Courts.	Appeals.	Causes under trial in the first instance.	Total.	Estimated amount of Property in litigation in original Causes on the 1st January 1815.		
				Star Pags.	F.	C.
Centre Division	81	19	100	1,76,053	39	47
Preceding half-yearly Report	... 95	... 17	... 112			
Northern Division	217	46	263	4,82,041	27	49
Preceding half-yearly Report	... 233	... 47	... 280			
Southern Division	112	11	123	73,535	25	4
Preceding half-yearly Report	... 109	... 15	... 124			
Western Division	61	9	70	77,288	3	6
Preceding half-yearly Report	... 59	... 13	... 72			
Total 1st January 1815	471	85	556	8,08,919	5	26
Totals of the preceding half-yearly	... 496	... 92	588			

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
28th February 1815.

General Abstract Statement of Causes decided in the Zillah Courts, during the Judges, pursuant to Section 10, *Regulation XIII. A. D.* 1802 ; *shewing, also, tween the* 1*st of January and* 31*st of December* 1814.

Zillahs.	By the Judge, in Appeal from Decision of				By the Assistant Judge, in Appeal from Decision of				
	The Register.		The Native Commissioners.		The Register.		The Native Commissioners.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs	
Bellaree	16	2	111	10	...	...	...	...	...
Canara	...	...	2	...	...	...	...	...	...
Chingleput	14	...	17	...	...	...	...	...	...
Chittoor	22	1	64	1	...	...	...	...	...
Cochin	...	...	...	...	...	...	...	...	...
Combaconum	10	1	39	5	4	...	16	...	...
Cuddupah	6	1	39	24	...	...	...	...	...
Darapooram	...	...	1	...	...	...	...	...	...
Ganjam	8	3	15	3	...	...	...	...	...
Guntoor	...	2	3	3	...	...	...	...	...
Madura	1	...	2	2	...	...	...	...	...
Malabar North	...	1	3	1	...	...	...	...	...
Malabar South	27	...	36	4	...	...	...	...	...
Masulipatam	43	...	108	4	...	...	...	...	...
Nellore	...	...	...	...	...	...	...	...	...
Rajahmundry	6	1	7	2	...	...	...	...	...
Salem	3	...	9	4	1	3	47	17	...
Seringapatam	...	...	...	...	...	...	...	...	...
Tinnevelly	10	...	9	1	...	...	...	...	...
Trichinopoly	11	4	18	4	...	...	...	...	...
Verdachellum	7	...	31	13	...	...	...	...	...
Vizagapatam	3	...	42	13	...	...	...	...	...
Total	187	16	556	94	5	3	63	17	

Sudder Adawlut, Register's Office,
28th February 1815.

year. 1814, *formed from the Monthly Abstract Registers furnished by the the Amount Value of Property held under Decrees passed in those Courts, be-*

	Tried in the first instance by						Total before the Judge, Assistant Judge, and Register	Tried in the first instance by the Commissioners		Total	Amount of Property Decreed		
	The Judge		The Assistant Judge		The Register								
	Decreed or Dismissed.	Adjusted by Razeenamahs	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed	Adjusted by Razeenamahs.		Decreed or Dismissed	Adjusted by Razeenamahs.		Star Pags	F	C
...	38	5	...	...	115	15	312	4,673	1,209	6,194	11,481	39	...
...	187	28	...	...	38	4	259	...	...	259	4 971	22	27
...	110	15	...	...	56	24	236	387	187	810	20,447	41	41
...	62	13	...	...	250	120	533	986	891	2,410	34,137	19	45
...	136	31	...	...	...	...	167	...	...	167	3,939	37	10
...	51	5	12	3	107	40	293	778	815	1,886	22,483	32	1
...	51	14	...	...	63	44	242	2,753	347	3,342	32,764	27	...
...	5	1	...	...	3	...	10	434	1,407	1,851	2 009	39	20
...	27	6	...	...	92	7	161	138	69	368	6,048	16	73
...	...	2	...	...	...	2	12	9	...	21	5,723	21	15
...	37	52	27	23	57	50	251	328	358	937	25,072	16	69
...	238	52	...	...	158	34	487	708	110	1,305	30,944	14	23
...	180	34	58	10	111	16	476	1,582	829	2 887	76,995	19	24
...	38	11	...	...	74	32	310	1,257	1,237	2,804	32,766	37	52
...	53	57	...	...	39	134	283	...	...	283	5,815	6	35
...	37	22	...	...	59	49	183	405	570	1,158	19,513	33	...
...	61	117	26	6	39	20	353	695	793	1,841	29,323	18	34
...	30	11	...	...	85	13	139	...	...	139	2,783	12	34
...	34	9	...	...	58	23	144	88	47	279	15,372	32	10
...	54	9	...	...	52	13	165	371	118	654	21,027	44	54
...	26	7	...	...	12	11	107	769	548	1,424	9,806	41	76
...	46	24	...	...	29	37	194	440	381	1,015	30,206	18	58
...	1,501	525	123	42	1,497	688	5,317	16,801	9,916	32,034	4,43,637	6	61

or £ Sterling 177,454 17 2

Errors Excepted,

(Signed) W. OLIVER,
Register.

General Report on the Reports furnished by the Zillah Judges, conformably to Section 11, *Regulation XIII.* 1802, *of Causes depending in their Courts, on the* 1*st January* 1815; *showing also the estimated Amount of Property in Litigation in those Courts.*

Zillahs.	By the Judge, in Appeal from Decision of		By the Assistant Judge, in Appeal from Decision of		Under Trial, in the first instance, before			Total before the Judge, Assistant Judge, and Register.	Under Trial, in the first instance, before the Native Commissioners.	Grand Total.	Amount of Property under Litigation.		
	The Register.	The Native Commissioners.	The Register.	The Native Commissioners.	The Judge.	The Assistant Judge.	The Register.				Pagodas	F.	C.
Bellary	11	37	...	...	28	...	64	140	392	532	23,200	8	66
Preceding half-yearly Report	... 17	... 92	...	...	... 42	...	... 91	... 242	... 326	... 568			
Canara	2	136	...	...	457	...	126	721	4,891	5,612	1,05,045	26	42
Preceding half-yearly Report	... ...	... 138	...	...	... 287	...	... 145	... 570	... 4,893	... 5,463			
Chingleput	3	2	...	...	38	...	32	75	218	293	10,858	27	77
Preceding half-yearly Report	... ...	... 3	...	...	... 20	...	... 41	... 64	... 207	... 271			
Chittoor	74	219	...	...	85	...	294	672	866	1,538	60,307	19	42
Preceding half-yearly Report	... 38	... 188	...	...	... 98	...	... 338	... 662	... 919	... 1,581			
Cochin	...	...	...	...	26	...	...	26	...	26	2,704	32	15
Preceding half-yearly Report	... ...	... ...	...	...	... 80	...	... ...	... 80	... ...	... 80			
Combaconum	14	84	3	66	57	83	223	530	531	1,061	57,441	28	58
Preceding half-yearly Report	... 17	... 120	... 7	... 12	... 78	... 8	... 309	... 551	... 585	... 1,136			
Cuddapah	33	109	...	...	96	...	77	315	901	1,216	27,079	4	60
Preceding half-yearly Report	... 31	... 104	...	...	... 92	...	... 63	... 290	... 413	... 703			
Darapooram	6	28	...	...	18	...	121	173	143	316	11,495	13	46
Preceding half-yearly Report	... 4	... 25	...	...	... 22	...	... 118	... 169	... 249	... 418			
Ganjam	10	28	...	...	25	...	44	107	92	199	9,921	27	14
Preceding half-yearly Report	... 10	... 22	...	...	... 37	...	... 66	... 135	... 111	... 246			
Guntoor	4	10	...	...	13	...	35	62	477	539	7,733	25	38
Preceding half-yearly Report	... ...	... ...	...	...	... ...	...	... ...	... ...	... ...	... ...			

Madura	7	13	3	3	130	117	47	320	56	376	33,262 14 34
Preceding half-yearly Report	... 7	... 16	3	... 3	... 173	...102	... 90	... 394	... 124	... 518	
Malabar, North	10	183	...	...	120	...	161	474	426	900	46,683 2 0
Preceding half-yearly Report	... 10	... 180	...	...	... 123	... ...	... 131	... 444	... 412	... 856	
Malabar, South	7	30	...	...	54	132	19	242	779	1,021	78,163 39 60
Preceding half-yearly Report	... 22	... 35	...	...	... 65	...115	... 233	... 470	... 786	... 1,256	
Masulipatam	10	19	...	...	24	...	52	105	96	201	15,395 2 7
Preceding half-yearly Report	... 38	... 86	...	...	... 31	...	... 24	... 179	... 93	... 272	
Nellore	...	...	...	...	48	...	230	278	...	278	11,552 39 19
Preceding half-yearly Report	... ...	... ...	...	...	... 60	...	... 236	... 296	... ...	... 296	
Rajahmundry	22	120	...	...	208	...	268	618	767	1,385	87,624 22 14
Preceding half-yearly Report	... 20	... 93	...	...	... 187	...	... 230	... 530	... 820	... 1,350	
Salem	32	350	...	73	445	17	88	1,005	690	1,695	74,781 14 31
Preceding half-yearly Report	... 6	... 319	...	...119	... 526	... 30	... 104	...1,104	... 491	... 1,595	
Seringapatam	3	...	...	...	14	...	95	112	...	112	8,609 18 70
Preceding half-yearly Report	... ...	... ...	...	...	... 9	...	... 42	... 51	... 69	... 120	
Tinnevelly	1	2	...	...	22	...	21	46	43	89	5,763 34 63
Preceding half-yearly Report	... 4	... 2	...	...	... 63	...	... 23	... 92	... 22	... 114	
Trichinopoly	13	109	...	...	32	...	90	244	118	362	23,440 39 71
Preceding half-yearly Report	... 19	... 105	...	...	... 46	...	... 126	... 296	... 107	... 403	
Verdachellum	11	98	...	...	41	...	108	258	956	1,214	29,420 42 33
Preceding half-yearly Report	... 17	... 97	...	...	... 49	...	... 95	... 258	... 918	... 1,176	
Vizagapatam	...	9	...	...	26	...	90	125	460	585	17,706 18 49
Preceding half-yearly Report	... ...	... 8	...	...	... 22	...	... 104	... 134	... 579	... 713	
Total current half yearly ...	273	1,586	6	142	2,007	349	2,285	6,648	12,902	19,550	7,48,192 8 29
Total preceding half-yearly	...260	...1,633	...10	...134	...2,110	...255	...2,609	...7,011	...12,124	...19,135	

Sudder Adawlut, Register's Office,
28th February 1815.

Errors Excepted.

(Signed) W. OLIVER,
Register.

APPEALS *decided by the* SUDDER ADAWLUT *in the Year* 1814.

Decreed or dimissed........................16
Adjusted by Razeenamahs of the parties

Total. .16

(Signed) W. OLIVER,
Register.

Register's Office,
1 January 1815.

General Abstract of Criminal Trials on which Sentences were passed by the Foujdarry Adawlut, from 1st of January to 31st December 1814.

Divisions.	Zillahs.	Number of Trials					Number of Prisoners on whom Sentence has been passed.									Total.
		1812.	1813.	1814.	Special Commission of 1812.	Total.	1812.	1813.	1814.	Special Commission.	Totals. Death.	Totals. Transportation.	Totals. Imprisonment.	Totals. Release.	Totals. Tazeer.	
Centre Division	Bellary	...	...	13	...	13	...	...	19	...	11	1	3	4	...	19
	Chittoor	...	...	5	...	5	...	...	9	...	3	2	3	1	...	9
	Cuddapah	2	2	5	...	9	3	5	6	...	2	4	3	5	...	14
Northern Division	Masulipatam	...	4	2	...	6	...	4	3	...	...	4	1	2	...	7
	Nellore	...	...	2	...	2	...	...	5	...	...	...	...	5	...	5
	Rajahmundry	...	...	5	...	5	...	...	16	...	4	3	1	8	...	16
	Ganjam	...	2	...	...	2	...	4	...	...	...	...	1	3	...	4
	Vizagapatam	...	...	1	...	1	...	...	2	...	...	...	1	1	...	2
Southern Division	Trichinopoly	...	1	...	...	1	...	1	...	...	...	...	...	1	...	1
	Darapooram	...	1	...	...	1	...	1	...	...	1	...	...	...	...	1
	Madura	...	1	...	...	1	...	1	...	...	...	1	...	...	...	1
	Tinnevelly	...	1	1	...	2	...	3	1	...	1	...	1	2	...	4
	Combaconum	...	...	3	...	3	...	...	5	...	1	...	2	2	...	5
Western Division	North Malabar	...	1	3	17	21	...	1	3	66	28	16	16	10	...	70
	South Malabar	...	5	4	...	9	...	12	4	...	2	...	5	9	...	16
	Canara	...	1	8	...	9	...	24	23	...	17	13	2	15	...	47
	Cochin	...	1	...	...	1	...	12	...	...	...	...	5	7	...	12
	Total...	2	20	52	17	91	3	68	96	66	70	44	44	75	...	233

Foujdarry Adawlut, Register's Office,
24th March 1817.

Errors Excepted.

(Signed) ROB. ANDERSON,
Deputy Register.

An Account shewing the Amount of Fees collected and carried to the Account of Government on the Institution and Trial of Suits and Appeals, from 1st January to 31st December 1814.

	Fees collected in 1814.		
	Pag.	F.	C.
Centre division	1,199	16	64
Northern division	2,259	3	25
Southern division	1,422	41	55
Western division	580	13	72
Bellaree	1,054	29	77
Canara	757	14	2
Chingleput	1,088	5	50
Chittoor	1,412	27	14
Cochin	469	25	59
Combaconum	1,120	1	6
Cuddapah	788	34	5
Darapooram	282	14	7
Ganjam	504	37	17
Guntoor	53	1	69
Madura	882	12	1
Malabar North	1,377	28	20
Malabar South	1,662	43	19
Masulipatam	1,452	2	31
Nelloor	701	19	24
Rajahmundry	990	25	30
Salem	768	35	45
Seringapatam	292	1	14
Tinnevelly	697	13	14
Trichinopoly	952	21	10
Verdachellum	640	0	31
Vizagapatam	1,060	30	60
Total, Star Pagodas	24,474	4	21

Errors excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
28th February 1814.

General Abstract Statement of Appeals and Causes determined or adjusted by the Provincial Courts of Appeal during the Year 1815, *formed from the Monthly Abstract Registers furnished by them, conformably to Section* 13, *Regulation XIII, A. D.* 1802; *shewing also the Amount Value of Property held under Decrees passed by those Courts in original Causes, to* 31*st December* 1815.

Courts.	Appeals		Causes, tried in the first instance,		Total.	Amount decreed in original Causes.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Pagodas.	F.	C.
Centre Division	59	2	14	1	76	1,28,918	5	73
Northern Division ...	64	9	2	...	75	1,23,421	20	33
Southern Division....	59	...	5	1	65	191	35	8
Western Division	46	1	8	...	55	52,060	5	26
Total...	228	12	29	2	271	3,04,591	21	60
					or £	121,836	11	10

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
28th March 1816.

General Report on the Reports furnished by the Provincial Courts, conformably to Section 14, *Regulation XIII, A. D.* 1802, *of Causes and Appeals remaining undecided in their Courts, on the* 1*st January* 1816.

Courts.	Appeals.	Causes under trial in the first instance.	Total.	Amount in Litigation.		
				Star Pags.	F.	C.
Centre Division..................	69	12	81	58,451	39	55
In the preceding half-year ...	... 92	... 15	... 107			
Northern Division	220	49	269	4,39,558	39	76
In the preceding half-year ...	... 199	... 48	... 247			
Southern Division	110	13	123	69,774	3	18
In the preceding half-year ...	... 99	... 14	... 113			
Western Division	50	17	67	1,13,518	38	43
In the preceding half-year ...	... 39	... 10	... 49			
Total	449	91	450	6,81,303	31	62
Total of the preceding half-year	... 429	... 87	516			
			or £	272,521	9	7

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
28th March 1816.

General Abstract Statement of Causes decided in the Zillah Courts, during the Judges, pursuant to Section 10, *Regulation XIII. A. D.* 1802; *shewing, also, tween the* 1*st of January and* 31*st of December* 1815.

Zillahs.	By the Judge, in Appeal from the Decision of				By the Assistant Judge, in Appeal from the Decision of				
	The Register.		The Native Commissioners.		The Register.		The Native Commissioners.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs,	
Bellary	17	...	100	1	...	...	...	...	...
Canara	...	...	3	6	...	...	...	...	...
Chingleput	14	1	26	2	...	...	...	...	...
Chittoor	23	2	114	10	...	...	...	...	...
Cochin	...	...	...	...	...	...	...	...	...
Combaconum	11	...	58	3	3	...	62	1	...
Cuddupah	12	4	35	10	...	...	...	...	...
Darapooram	2	...	17	1	...	...	...	...	...
Guntoor	3	...	5	1	...	...	...	...	...
Madura	8	1	8	5	3	...	...	2	...
Malabar North	8	...	41	7	...	...	...	...	...
Malabar South	14	1	90	10	...	...	...	...	...
Masulipatam	22	2	66	4	...	...	...	...	...
Nellore	...	...	...	...	...	...	...	...	...
Rajahmundry	8	...	30	5	...	...	...	...	...
Salem	7	2	23	12	8	...	123	61	...
Seringapatam	...	...	...	...	...	...	...	...	...
Tinnevelly	6	...	4	...	...	...	...	...	...
Trichinopoly	7	...	35	10	...	...	...	...	...
Verdachellum	7	3	64	13	...	...	...	...	...
Vizagapatam	13	...	47	8	...	...	...	...	...
Ganjam	5	1	14	...	...	...	...	...	...
Total	187	17	780	108	14	...	185	64	

Sudder Adawlut, Register's Office,
28th March 1816.

Year 1815, formed from the Monthly Abstract Registers furnished by the the Amount Value of Property held under Decrees passed in those Courts, be-

	Tried in the first instance by						Total.	Tried in the first instance by the Commissioners.		Total.	Amount of Property Decreed.		
	The Judge.		The Assistant Judge.		The Register.								
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Decreed or Dismissed.	Adjuste by Razeenamahs.		Star Pags.	F.	C.
...	45	...	...	...	155	...	318	6,426	625	7,367	20,871	42	3
...	846	307	...	...	260	22	1,444	205	19	1,668	14,263	33	78
...	130	27	...	...	101	50	351	297	173	821	21,695	36	11
...	44	16	...	...	283	95	587	997	1,070	2,654	40,573	23	59
...	54	10	...	...	...	...	64	...	...	64	4,759	10	34
...	44	4	96	21	97	19	419	633	555	1,607	17,426	7	48
...	63	31	...	...	122	74	351	4,505	337	5,193	39,850	13	26
...	31	1	...	...	35	2	89	479	781	1,349	7,451	5	22
...	4	7	...	...	43	35	98	424	431	953	8,484	25	55
...	77	73	84	35	20	14	330	378	318	1,026	45,918	37	36
...	215	25	...	...	165	26	487	490	82	1,059	27,817	14	4
...	355	95	194	25	54	5	843	2,690	685	4,218	32,994	36	55
...	49	16	...	...	56	44	259	951	837	2,047	89,159	15	40
...	51	22	...	...	103	140	316	23	35	374	5,409	12	39
...	89	54	...	...	115	46	347	466	668	1,481	26,940	34	5
...	38	107	10	1	58	23	473	938	1,080	2,491	25,879	1	74
...	13	...	...	...	213	11	237	...	...	237	3,433	28	56
...	49	13	...	...	38	25	135	106	94	335	10,594	37	46
...	62	8	...	...	68	8	198	285	97	580	16,750	36	55
...	18	7	...	...	63	33	208	831	825	1,864	8,929	3	15
...	42	22	...	...	78	62	272	314	369	955	28,353	20	1
...	28	1	...	...	49	4	102	133	37	272	*4,756	38	10
...	2,347	846	384	82	2,176	738	7,928	21,571	9,116	38,615	5,05,344	19	52

or £ 202,137 15 6

Errors Excepted,

(Signed) W. OLIVER,

General Report on the Reports furnished by the Zillah Judges, conformably to Section 11, *Regulation XIII,* 1802, *of Causes depending in their Courts, on the* 1*st January* 1816; *showing also the estimated Amount of Property in Litigation in those Courts.*

Zillahs.	Before the Judge, in Appeal from the Decision of		Before the Assistant Judge, in Appeal from the Decision of		Under Trial, in the first instance, before			Total before the Judge, Assistant Judge, and Register.	Under Trial, in the first instance, before the Native Commissioners.	Grand Total.	Estimated Amount of Property in Litigation in the Zillah Courts, on the 1st of January 1816.
	The Register.	The Native Commissioners.	The Register.	The Native Commissioners.	The Judge.	The Assistant Judge.	The Register.				Pagodas F. C.
Bellary	7	25	...	...	12	...	36	80	447	527	10,355 20 1
Preceding half-yearly Report	... 5	... 25	...	...	... 16	...	... 34	... 80	... 393	... 473	
Canara	19	164	...	...	275	...	563	1,021	4,403	5,424	91,437 29 30
Preceding half-yearly Report	... ...	... 143	...	...	... 276	...	... 393	... 812	... 4,896	... 5,708	
Chingleput	1	...	...	...	47	...	37	85	258	343	6,201 44 25
Preceding half-yearly Report	... 1	... 4	...	...	... 34	...	... 53	... 92	... 203	... 295	
Chittoor	118	235	...	...	86	...	166	605	638	1,443	58,171 26 4
Preceding half-yearly Report	... 95	... 237	...	...	... 72	...	... 185	... 589	... 638	... 1,227	
Cochin	...	...	...	...	12	...	...	12	...	12	661 19 56
Preceding half-yearly Report	... ...	... ...	...	...	... 14	...	... ...	... 14	... ...	... 14	
Combaconum	13	81	3	48	106	68	79	398	591	989	34,736 0 5
Preceding half-yearly Report	... 6	... 73	... 3	... 58	... 67	...113	... 153	... 473	... 601	... 1,074	
Cuddapah	35	148	...	...	116	...	55	354	987	1,341	28,322 36 28
Preceding half-yearly Report	... 31	... 143	...	...	... 73	...	... 34	... 281	... 1,145	... 1,426	
Darapooram	7	33	...	...	15	...	99	154	192	346	11,831 7 46
Preceding half-yearly Report	... 6	... 34	...	...	... 24	...	... 123	... 187	... 247	... 434	
Guntoor	4	7	...	...	24	...	25	60	334	394	10,412 43 32
Preceding half-yearly Report	... 3	... 8	...	...	... 21	...	... 2	... 34	... 131	... 165	
Madura	1	10	...	4	58	28	15	116	14	130	4,716 37 22
Preceding half-yearly Report	... 3	... 12	2	...	... 78	89	... 37	... 221	... 72	... 295	

Malabar, North	29	160	...	...	209	...	107	505	531	1,036	34,876 24 19
Preceding half-yearly Report	... 22	... 140	...	...	... 185	... ...	... 139	... 488	... 405	... 893	
Malabar, South	10	75	...	...	224	225	68	602	470	1,072	804 28 39
Preceding half-yearly Report	... 11	... 41	...	...	... 80	...113	... ...	... 245	... 838	... 1,083	
Masulipatam	11	41	...	...	32	...	97	181	153	334	18,391 5 24
Preceding half-yearly Report	... ...	... 9	...	...	... 6	...	... 82	... 97	... 113	... 210	
Nellore	...	...	...	...	16	...	85	101	57	158	7,491 44 64
Preceding half-yearly Report	... ...	... ...	...	...	... 44	...	... 262	... 306	... ...	... 306	
Rajahmundry	32	118	...	...	189	...	288	627	1,121	1,748	1,10,700 11 12
Preceding half-yearly Report	... 25	... 135	...	...	... 228	...	... 249	... 637	... 1,012	... 1,649	
Salem	23	236	8	89	330	46	67	799	748	1,547	66,024 36 17
Preceding half-yearly Report	... 22	... 256	16	96	... 439	11	... 63	... 903	... 780	... 1,683	
Seringapatam	13	...	...	...	11	...	112	136	...	136	8,528 35 60
Preceding half-yearly Report	... 8	... ...	...	...	... 15	...	... 77	... 100	... ...	... 100	
Tinnevelly	1	...	...	...	24	...	12	37	74	111	5,848 29 57
Preceding half-yearly Report	... 1	... ...	...	...	... 6	...	... 6	... 13	... 37	... 50	
Trichinopoly	11	98	...	...	32	...	61	202	112	314	13,780 9 70
Preceding half-yearly Report	... 9	... 91	...	...	... 41	...	... 34	... 175	... 168	... 343	
Verdachellum	14	95	...	...	48	...	81	238	945	1,183	28,022 8 78
Preceding half-yearly Report	... 8	... 109	...	...	... 43	...	... 98	... 258	... 928	... 1,186	
Vizagapatam	...	17	...	...	26	...	48	91	449	540	18,179 1 9
Preceding half-yearly Report	... 2	... 7	...	...	... 23	...	... 45	... 77	... 415	... 492	
Ganjam	20	25	...	...	14	...	13	72	134	206	* 7,590 30 60
Preceding half-yearly Report	... 20	... 25	...	...	... 14	...	... 13	... 72	... 134	... 206	
Total ...	369	1,568	11	141	1,906	367	2,114	6,476	12,858	19,334	6,59,386 35 38
Total preceding half-yearly Report	...285	...1,494	...21	...154	...1,792	...326	...2,082	...6,154	...13,156	...19,310	

Or £ 263,754 14 4

Sudder Adawlut, Register's Office,
28th March 1816.

Errors Excepted.

(Signed) W. OLIVER,
Register.

* This is the number of Causes depending in this Zillah up to the 1st July last, the usual annual reports not having been furnished on account of the sickness which has prevailed among the Native Establishment of the Zillah Court.

Appeals decided by the SUDDER ADAWLUT *in the Year* 1815.

Decreed or dismissed..............................	21
Adjusted by Razeenamahs of the parties ...	3
Total	24

(Signed) R. CLARKE,
Deputy Register.

Register's Office,
28 March 1816.

General Abstract of Criminal Trials on which Sentences were passed by the Foujdarry Adawlut, from 1st January to 31st December 1815.

Divisions.	Zillahs.	Number of Trials. 1812.	1813.	1814.	1815.	Total.	Number of Prisoners on whom Sentence has been passed. 1812.	1813.	1814.	1815.	Totals. Death.	Transportation.	Imprisonment.	Released on Security.	Released.	Total.
Centre Division ...	Chittoor	1	...	...	11	12	27	...	...	14	1	2	2	2	34	41
	Bellary	...	...	1	11	12	...	...	1	14	6	...	2	...	7	15
	Cuddapah	5	...	14	6	25	19	...	32	8	1	15	10	4	29	59
	Chingleput......	...	...	4	...	4	...	...	10	...	...	8	1	1	...	10
Northern Division	Masulipatam ...	...	...	1	...	1	...	...	2	...	2	...	...	...	...	2
	Nellore	...	...	2	1	3	...	...	13	4	...	...	...	...	17	17
	Guntoor	...	...	...	1	1	...	...	...	2	...	...	...	...	2	2
	Rajahmundry...	...	...	6	3	9	...	...	18	8	1	3	1	...	21	26
	Vizagapatam ...	...	...	2	4	6	...	...	29	4	...	...	9	20	4	33
	Ganjam	...	...	4	...	4	...	...	9	...	...	...	...	1	8	9
Southern Division	Trichinopoly ...	...	...	3	...	3	...	...	3	...	...	...	1	...	2	3
	Combaconum...	...	...	4	1	5	...	...	10	1	5	...	1	...	5	11
	Verdachellum...	...	...	...	1	1	...	...	...	1	...	...	...	...	1	1
	Salem	...	...	14	8	22	...	...	53	17	2	15	1	1	51	70
	Darapooram ...	...	2	4	...	6	...	36	5	...	2	1	21	...	17	41
	Madura	...	...	4	1	5	...	...	13	1	2	1	1	2	8	14
	Tinnevelly	...	1	4	...	5	...	1	5	...	1	...	2	...	3	6
Western Division	North Malabar.	...	...	1	2	3	...	...	5	3	2	1	...	...	5	8
	South Malabar.	...	...	14	3	17	...	...	39	9	13	12	5	2	16	48
	Canara	...	...	1	3	4	...	...	6	3	1	...	...	4	4	9
	Cochin	...	...	1	...	1	...	...	1	...	...	...	...	1	1	1
	Seringapatam...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
	Total...	6	3	84	56	149	46	37	254	89	39	58	57	37	235	426

Foujdarry Adawlut, Register's Office,
24th March 1817.

Errors Excepted.

(Signed) ROB. ANDERSON,
Deputy Register.

An Account shewing the Amount of Fees collected and carried to the Account of Government on the Institution and Trial of Suits and Appeals, from 1st January to 31st December 1815.

	Fees collected in 1815.		
	S. Pags.	F.	C.
Centre division	1,192	41	10
Northern division	2,583	29	24
Southern division	990	42	24
Western division	2,149	37	2
Bellary	821	30	68
Canara	2,942	29	46
Chingleput	1,302	40	46
Chittoor	1,766	14	2
Cochin	207	19	61
Combaconum	1,128	39	52
Cuddapah	1,121	40	75
Darapooram	461	8	47
Ganjam	280	35	0
Guntoor	597	29	18
Madura	807	15	77
Malabar, North	1,124	2	9
Malabar, South	1,821	5	27
Masulipatam	1,300	2	57
Nellore	675	21	32
Rajahmundry	1,492	3	17
Salem	671	32	46
Seringapatam	294	8	26
Tinnevelly	431	36	3
Trichinopoly	1,286	3	61
Verdachellum	912	24	65
Vizagapatam	1,435	5	16
Total, Star Pagodas	29,800	14	31

Errors excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
28th March 1816.

This is the amount of fees collected in this Zillah up to the 30th June last, the usual annual account not having been furnished on account of the sickness which has prevailed among the Native Establishment of the Zillah Court.

General Abstract Statement of Appeals and Causes, determined or adjusted by the Provincial Courts of Appeals, from January to June 1816, *formed from the Monthly Abstract Registers, furnished by them conformably to Section* 13, *Regulation XIII, A. D.* 1802.

Courts.	Appeals		Causes tried in the first instance		Total.
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	
Centre Division..........	30	3	4	3	40
Northern Division.........	33	3	1	6	43
Southern Division.........	36	1	3	..	40
Western Division.........	20	1	7	..	28
Total....	119	8	15	9	151

Errors Excepted.

Sudder Adawlut, Register's Office. (Signed) W. OLIVER, Register.

General Abstract Statement of Appeals and Causes determined or adjusted by the Provincial Courts of Appeal, from July to December 1816, *formed from the Monthly Abstract Registers, furnished by them conformably to Section* 13, *Regulation XIII, A. D.* 1802, *shewing also the Amount Value of Property held under Decrees passed by those Courts in original Causes.*

Courts.	Appeals		Causes tried in the first instance		Total.	Amount of Property Decreed.
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Pags. F. C.
Centre Division...	40	1	3	1	45	7,611 7 58
Northern Division.	20	2	2	..	24	6,533 7 49
Southern Division.	22	..	1	..	23	1,093 33 60
Western Division..	12	..	2	..	14	7,860 4 20
Total ...	94	3	8	1	106	23,098 8 27

Errors Excepted.

Sudder Adawlut, Register's Office, 20th February 1818. (Signed) R. CLARKE, Acting Register.

General Report on the Reports furnished by the Provincial Courts, conformably to Section 14, *Regulation XIII, A. D.* 1802, *of Causes and Appeals remaining undecided in their Courts on the* 1*st January* 1817.

Courts.	Appeals.		Causes under Trial in the first instance.		Total.		Amount in Litigation
							Pagodas. F. C.
Centre Division............	43		9		52		36,771 41 8
In the preceding half-yearly	..	58	..	11	..	69	
Northern Division..........	212		54		266		6,77,779 28 77
In the preceding half-yearly	..	202	..	50	..	252	
Southern Division..........	108		11		119		42,333 20 17
In the preceding half-yearly	..	99	..	11	..	110	
Western Division...........	90		24		114		1,30,284 18 40
In the preceding half-yearly	..	69	..	15	..	84	
Total....	453		98		551		8,87,169 18 62
Total of the preceding half-yearly........		428		87		515	

Errors Excepted.

Sudder Adawlut, Register's Office, 24th March 1817. (Signed) W. OLIVER, Register.

General Abstract Statement of Causes decided in the Zillah Courts, from January Judges, pursuant to Section 10,

Zillahs.	By the Judge, in Appeal from the Decision of				By the Assistant Judge, in Appeal from the Decision of				
	The Register.		The Native Commissioners.		The Register.		The Native Commissioners.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	
Bellary	12	...	60	4	...	...	...	...	...
Canara	...	...	3	...	...	...	...	...	...
Chingleput	5	...	3	...	...	...	...	...	...
Chittoor	11	2	44	4	15	1	9	1	...
Cochin	...	...	...	...	...	...	...	...	...
Combaconum	2	...	23	...	...	...	2	...	...
Cuddupah	4	3	16	12	...	...	...	...	...
Darapooram	4	...	17	2	...	...	...	...	...
Ganjam	...	...	...	...	...	...	...	...	...
Guntoor	3	...	1	1	...	...	...	...	...
Madura	...	1	4	4	...	...	...	...	...
Malabar North	6	...	55	1	...	...	...	...	...
Malabar South	9	1	76	6	...	...	...	...	...
Masulipatam	8	...	36	2	...	...	...	...	...
Nellore	...	...	...	...	...	...	...	...	...
Rajahmundry	7	...	28	1	...	...	...	...	...
Salem	1	1	5	1	8	...	25	7	...
Seringapatam	12	...	...	...	...	...	...	...	...
Tinnevelly	1	...	...	1	...	...	...	...	...
Trichinopoly	2	1	32	7	...	...	...	...	...
Verdachellum	5	...	46	12	...	...	...	...	...
Vizagapatam	...	...	15	...	...	...	...	...	...
Total	92	9	464	58	23	1	36	8	...

Sudder Adawlut, Register's Office,
9th September 1817.

to June 1816, *formed from the Monthly Abstract Registers furnished by the Regulation XIII. A. D.* 1802.

	Tried in the first instance by						Total.	Tried in the first instance by the Commissioners.		Total.
	The Judge.		The Assistant Judge.		The Register.					
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Decreed or Dismissed.	Adjusted by Razeenamahs.	
...	25	...	...	...	109	3	213	5,046	238	5,497
...	747	54	...	...	139	...	943	455	122	1,520
...	38	4	...	...	61	25	136	226	114	476
...	9	8	1	...	78	25	208	463	419	1,090
...	27	2	...	...	...	...	29	...	...	29
...	17	3	15	1	45	23	131	401	376	908
...	47	11	...	...	49	21	163	1,873	97	2,133
...	6	1	...	...	28	1	59	334	394	787
...	...	1	...	...	...	...	1	44	14	59
...	2	...	...	...	9	16	32	143	288	463
...	38	40	...	...	30	17	134	109	70	313
...	90	11	...	...	82	10	255	356	107	718
...	175	33	128	10	88	22	548	1,171	692	2,411
...	15	2	...	...	32	30	125	590	561	1,276
...	30	8	...	...	46	26	110	73	73	256
...	24	6	...	...	33	16	115	222	325	662
...	9	6	1	2	17	14	97	407	328	832
...	26	...	...	...	99	1	138	3	...	141
...	31	7	...	...	22	7	69	78	35	182
...	20	5	...	...	60	6	133	124	50	307
...	13	5	...	...	29	17	27	492	461	1,080
...	18	3	...	...	31	33	100	146	115	361
...	1,407	210	145	13	1,087	313	3,866	12,756	4,879	21,501

Errors Excepted.

(Signed) W. OLIVER,
Register.

General Abstract Statement of Causes decided in the Zillah Courts, from July to December 1816, *Regulation XIII, A. D.* 1802, *shewing also the Amount Value*

Zillahs.	By the Judge, in Appeal from Decision of										By the Assistant Judge, in Appeal from Decision of										Tried, in the first instance, by					
	The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Judge.		The Assistant Judge.		The Register.	
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.
Bellary ……	11	1	16	..	15	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	30	5	..	..	6	1
Canara ……	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	378	..	..	..	128	17
Chingleput ..	2	..	2	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	14	2	..	..	69	21
Chittoor ….	11	2	53	3	..	..	..	..	..	..	11	..	24	..	..	..	..	..	..	..	16	4	4	3	26	16
Cochin ……	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	28	7	..	..	..	..
Combaconum	10	3	13	..	..	..	..	..	..	..	..	..	6	..	..	..	..	..	..	..	18	2	17	2	29	8
Cuddapah ….	7	1	18	13	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	22	14	..	..	89	43
Darapooram ..	1	..	8	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	15	..	..	..	14	2
Ganjam ….	5	..	11	..	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	17	1	..	..	32	5
Guntoor ….	5	1	4	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	18	6	..	..	9	11
Madura ……	1	2	2	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	44	65	..	..	43	30
Malabar, North	6	1	20	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	144	9	..	..	51	4
Malabar, South	..	..	32	4	16	4	..	..	..	..	..	..	4	..	..	..	..	..	..	..	204	32	95	5	62	7
Masulipatam..	5	2	58	5	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	10	4	..	..	40	18
Nellore ……	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	10	6	..	..	17	15
Rajahmundry	6	1	14	1	4	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	48	63	..	..	45	20
Salem ……	1	1	3	7	..	..	..	..	..	..	..	..	29	13	..	..	..	..	..	..	107	7	16	..	25	7
Seringapatam	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	9	..	..	..	55	..
Tinnevelly….	6	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	33	2	..	..	22	8
Trichinopoly..	3	..	20	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	13	4	..	..	9	2
Verdachellum	4	..	20	3	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	13	2	..	..	32	18
Vizagapatam..	7	..	36	4	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	25	9	..	..	[illegible]4	29
Total….	94	15	331	45	39	7	..	..	..	..	11	..	63	13	..	..	..	..	..	..	1,216	244	132	10	827	[illegible]82

Sudder Adawlut, Register's Office,
20th February 1818.

formed from the Monthly Abstract Register furnished by the Judges pursuant to Section 10, *of Property held under Decrees passed in those Courts.*

Total before the Judge, Assistant Judge, and Register.	By the Sudder Aumeen, in Appeal from the Decision of the Commissioners, &c.		Tried, in the first instance, by the Native Commissioners.													Total Native Commissioners.	Grand Total.	Amount Property Decreed.		
			Former Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.							
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Total.			S. Pags.	F.	C.
86	22	..	2,925	62	452	..	1,184	..	..	..	..	1	..	..	4,624	4,646	4,732	12,044	21	29
52[illegible]	..	..	1,307	261	207	30	..	..	..	..	..	..	..	..	1,805	1,805	2,330	14,045	19	46
111	..	..	134	118	28	20	128	75	..	..	33	56	5	2	597	597	708	8,593	39	15
173	9	4	616	318	154	73	136	367	..	..	..	..	..	..	1,664	1,677	1,850	23,670	36	61
35	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	35	1,592	17	15
108	6	..	276	127	46	16	115	117	..	..	..	..	..	..	697	703	811	8,026	1	21
207	43	30	956	152	94	74	794	203	..	..	253	108	59	29	2,722	2,795	3,002	16,960	41	0
40	1	..	229	260	36	12	..	..	..	..	..	..	..	..	537	538	578	4,079	1	65
73	..	..	24	9	19	30	..	..	..	..	..	..	..	..	82	82	155	4,961	22	40
56	..	..	195	342	23	29	58	71	..	..	..	..	..	..	718	718	774	11,066	15	10
188	..	..	242	112	12	6	47	197	..	..	..	..	..	..	616	616	804	30,668	30	65
236	1	..	237	50	31	4	81	35	..	..	..	..	..	..	438	439	675	18,394	36	25
465	..	..	1,351	198	57	9	207	85	..	..	..	..	..	..	1,907	1,907	2,372	45,727	2	62
144	12	2	647	315	50	28	221	341	..	..	..	..	..	..	1,602	1,616	1,760	16,652	40	40
48	..	..	13	45	26	34	17	46	..	..	..	..	..	..	181	181	229	1,138	40	71
204	..	..	178	107	99	86	147	313	..	..	..	..	..	..	930	930	1,134	15,066	11	12
216	31	33	539	263	5	3	..	..	..	..	..	..	..	..	810	874	190	7,197	17	57
65	..	..	1	..	1	..	..	..	..	..	..	..	..	..	2	2	67	777	27	31
72	..	..	51	28	25	32	54	94	..	..	..	..	..	..	284	284	356	7,543	11	27
51	..	..	70	53	20	11	..	..	..	..	..	..	..	..	154	154	205	1,981	6	51
92	..	..	569	457	..	..	..	..	..	..	..	..	..	..	1,026	1,026	1,118	4,675	41	61
134	..	..	197	292	..	..	..	..	..	..	..	..	..	..	489	489	623	20,256	17	74
3,329	125	69	10,735	3,569	1,385	497	3,189	1,944	..	..	286	165	64	31	21,885	22,079	25,408	2,75,121	5	78

Errors Excepted.

(Signed) R. CLARKE,
Acting Register.

General Report of the Reports furnished by the Zillah Judges, conformably to Section 11, shewing also the estimated Amount of

Zillahs.	Before the Judge, in Appeal from the Decision of					Before the Assistant Judge, in Appeal from the Decision of		Under Trial in the first instance before			
	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The Village Moonsiffs.	The former Commissioners.	The Register.	The former Commissioners.	The Judge.	The Assistant Judge.	The Register.	
Bellary	..	8	..	..	..	..	..	4	..	10	..
Preceding half yearly Report	.. 6	..	..	..	.. 20	..	..	.. 9	..	.. 36	
Canara	113	..	..	..	154	..	..	109	..	611	..
Preceding half-yearly Report	..213	..	..	..	.. ..	..	..	.. 117	..	.. 661	
Chingleput	15	1	4	..	..	..	..	16	..	5	..
Preceding half-yearly Report	.. 6	..	..	..	.. 1	..	..	.. 22	..	.. 50	
Chittoor	89	118	..	..	95	27	39	55	37	34	..
Preceding half yearly Report	..108	..	..	..	.. 248	..	..	.. 90	..	.. 178	
Cochin	..	..	..	..	..	..	..	18	..	..	..
Preceding half-yearly Report	.. ..	..	..	..	.. ..	..	..	.. 17	..	..	
Combaconum	11	..	..	..	82	3	40	63	33	30	..
Preceding half-yearly Report	.. 13	..	..	..	.. 104	.. 3	.. 46	.. 76	.. 52	.. 85	
Cuddapah	28	..	..	..	127	..	..	67	..	81	..
Preceding half-yearly Report	.. 53	..	..	..	.. 167	..	..	.. 85	..	.. 50	
Darapooram	6	18	..	..	19	..	..	18	..	60	..
Preceding half-yearly Report	.. 6	..	..	..	.. 25	..	..	.. 46	..	.. 81	
Ganjam	17	12	..	..	1	..	..	9	..	16	..
Preceding half-yearly Report	.. 20	..	..	..	.. 25	..	..	.. 35	..	.. 11	
Guntoor	1	..	..	..	8	..	..	23	..	2	..
Preceding half-yearly Report	.. 2	..	..	..	.. 7	..	..	.. 43	..	.. 1	
Madura	11	1	..	..	..	..	..	30	..	23	..
Preceding half-yearly Report	.. 3	..	..	..	.. 2	..	..	.. 107	..	.. 37	
Malabar, North	29	10	..	..	..	..	..	209	..	43	..
Preceding half-yearly Report	.. 33	..	..	..	.. 130	..	..	.. 275	..	.. 102	
Malabar, South	..	8	..	..	9	2	41	32	53	24	..
Preceding half-yearly Report	.. ..	..	..	..	.. 97	..	..	.. 59	..152	.. 57	
Masulipatam	4	10	..	..	30	..	..	15	..	20	..
Preceding half-yearly Report	.. 4	..	..	..	.. 71	..	..	.. 20	..	.. 59	
Nellore	1	7	..	..	..	..	..	21	..	39	..
Preceding half-yearly Report	.. ..	..	..	..	.. 3	..	..	.. 21	..	.. 39	
Rajahmundry	45	163	..	..	..	..	..	347	..	273	..
Preceding half-yearly Report	.. 44	..	..	..	.. 131	..	..	.. 245	..	.. 309	
Salem	28	..	..	..	174	3	45	32	27	45	..
Preceding half-yearly Report	.. 22	..	..	..	.. 260	..	.. 57	.. 86	.. 43	.. 38	
Seringapatam	..	..	..	..	..	..	..	38	..	..	..
Preceding half-yearly Report	.. 58	..	..	..	.. ..	..	..	.. 58	..	..	
Tinnevelly	1	3	..	..	1	..	..	15	..	17	..
Preceding half-yearly Report	.. 3	..	..	..	.. ..	..	..	.. 39	..	.. 16	
Trichinopoly	13	..	..	..	58	..	..	29	..	20	..
Preceding half-yearly Report	.. 13	..	..	..	.. 73	..	..	.. 27	..	.. 19	
Verdachellum	14	..	..	..	63	..	..	44	..	39	..
Preceding half-yearly Report	.. 16	..	..	..	.. 61	..	..	.. 41	..	.. 83	
Vizagapatam	4	..	..	..	8	..	..	26	..	19	..
Preceding half-yearly Report	.. 2	..	..	..	.. 9	..	..	.. 30	..	.. 35	
Total	430	359	4	..	829	35	165	1,220	150	1,411	..
Total preceding half-yearly Report	..605	..	..	..	.. 1,434	.. 3	..103	.. 1,490	..247	.. 1,947	..

Sudder Adawlut, Register's Office,
24th March 1817.

Regulation XIII, 1802, of Causes depending in their Courts, on the 1st January 1817; Property in Litigation in those Courts.

Total before the Judge, Assistant Judge, and Register.	(cont.)	Before the Sudder Aumeen, in Appeal from the Decision of the District Moonsiff, &c.	Under Trial in the first instance before: Sudder Aumeens.	District Moonsiffs.	District Punchayets.	Village Moonsiffs.	Village Punchayets.	Former Commissioners.	(cont.)	Total.	Total Native Commissioners.	Grand Total.	Total of preceding half-year.	Estimate Amount of Property in Litigation, on 1st January 1817. Pags. F. C.
22	71	23	400	2	..	..	..	..	560	402	425	447	631	9,338 7 28
987	991	..	645	1,059	..	..	..	..	3,677	1,704	1,704	2,691	4,668	59,193 29 16
41	79	..	19	89	1	14	..	..	188	123	123	164	267	7,366 21 26
494	624	7	125	293	..	..	..	..	853	418	425	919	1,477	51,402 26 27
18	17	..	..	..	..	..	..	..	..	..	..	18	17	2,400 9 74
262	379	17	71	..	..	..	..	318	510	389	406	668	889	31,142 0 16
303	335	..	929	..	..	..	..	..	892	929	929	1,232	1,227	22,210 19 5
121	158	..	72	..	..	..	..	..	119	72	72	193	277	10,940 0 25
55	91	..	204	..	..	..	..	..	217	204	204	259	308	9,002 7 45
34	53	..	35	233	..	..	..	1	255	269	269	303	308	12,226 21 22
65	149	..	15	..	..	..	..	..	9	15	15	80	158	2,293 19 69
291	540	100	70	..	..	..	..	565	646	635	735	1,026	1,186	25,883 24 44
169	365	99	115	402	..	..	..	..	515	517	616	785	880	69,888 20 25
79	154	27	6[illegible]	442	..	..	..	187	136	689	716	795	290	1[illegible],662 2 15
68	63	..	235	92	..	..	..	..	156	327	327	395	219	11,669 10 10
828	552	..	929	..	..	..	..	..	1,044	929	929	1,757	1,596	1,49,436 4 65
354	506	54	8	109	..	..	..	..	612	117	171	525	1,118	49,609 26 32
38	..	..	..	..	..	..	..	..	..	..	..	38	58	2,557 3 18
37	58	..	6	137	..	..	..	..	35	143	143	180	93	5,228 14 16
120	132	..	..	..	..	..	..	162	115	162	162	282	247	15,746 21 56
160	201	..	..	..	..	..	..	520	1,013	520	520	680	1,214	22,096 24 24
57	76	..	..	..	..	..	..	664	406	664	664	721	482	25,671 31 52
4,603		327	3,938	2,858	1	14	..	2,417		9,228	9,555	14,158	..	6,10,964 40 70
..	5,829	..	..	..	..	..	..	..	11,958	.	..	..	17,787	

Errors Excepted.

(Signed) W. OLIVER,
Register.

Appeals decided by the SUDDER ADAWLUT *in the Year* 1816.

Decreed or dismissed..........................	26
Adjusted by Razeenamahs of the parties ...	1
Total	27

(Signed) W^M. OLIVER,
Register.

Register's Office,
24th March 1817.

General

General Abstract of Criminal Trials on which Sentences were passed by the Foujdarry Adawlut, from 1st January to 31st December 1816.

Divisions.	Zillahs.	Number of Trials.			Total.	Number of Prisoners on whom Sentence has been passed.								Total.
									Totals.					
		1814.	1815.	1816.		1814.	1815.	1816.	Death.	Transportation.	Imprisonment.	Released on Security.	Released.	
Centre Division	Chittoor	1	2	8	11	3	2	12	5	1	2	2	7	17
	Bellary	...	4	3	7	...	6	3	2	3	3	...	1	9
	Cuddapah	...	2	6	8	...	2	10	2	...	1	...	9	12
	Chingleput	...	1	...	1	...	3	...	...	...	...	...	3	3
Northern Division	Masulipatam	...	...	1	1	...	...	1	1	...	...	...	...	1
	Nellore	...	...	1	1	...	...	2	...	...	2	...	...	2
	Guntoor	...	...	2	2	...	...	3	...	...	...	...	3	3
	Rajahmundry	...	1	1	2	...	2	1	...	...	...	...	3	3
	Vizagapatam	...	1	4	5	...	1	13	...	1	...	9	4	14
	Ganjam	...	1	3	4	...	1	5	...	...	...	...	6	6
Southern Division	Trichinopoly	...	1	4	5	...	2	5	2	...	...	...	5	7
	Combaconum	...	2	...	2	...	2	...	1	...	...	...	1	2
	Verdachellum	...	2	...	2	...	4	...	2	...	...	1	1	4
	Salem	...	...	2	2	...	...	2	1	...	...	...	1	2
	Darapooram	...	...	1	1	...	...	1	...	...	1	...	...	1
	Madura	...	1	3	4	...	1	3	1	...	1	2	...	4
	Tinnevelly	...	3	1	4	...	13	1	1	...	...	1	12	14
Western Division	North Malabar	...	2	2	4	...	4	3	1	...	...	1	5	7
	South Malabar	...	10	6	16	...	30	10	3	...	8	1	28	40
	Canara	...	5	2	7	...	15	6	2	...	...	3	16	21
	Total...	1	38	50	89	3	88	81	24	5	18	20	105	172

Foujdarry Adawlut, Register's Office,
24th March 1817.

Errors Excepted. (Signed) ROBT. ANDERSON,
Deputy Register.

An Account shewing the Amount of Fees collected and carried to the Account of Government in the Institution and Trial of Suits and Appeals from 1st of January to 31st December 1816.

	Fees collected in 1816.			Totals.		
Zillah Courts.	S. Pags.	F.	C.	S. Pags.	F.	C.
Bellary	1,140	35	59			
Canara	2,717	37	38			
Chingleput	1,090	15	22			
Chittoor	1,093	26	40			
Cochin	313	30	6			
Combaconum	1,077	6	14			
Cuddapah	1,112	10	5			
Darapooram	516	38	4			
Ganjam	229	22	59			
Guntoor	407	6	17			
Madura	1,216	25	3			
Malabar, North	1,326	40	25			
Malabar, South	3,366	20	46			
Masulipatam	985	0	70			
Nellore	826	34	9			
Rajahmundry	2,116	42	32			
Salem	466	33	31			
Seringapatam	170	37	12			
Tinnevelly	483	4	29			
Trichinopoly	1,052	21	79			
Verdachellum	995	22	10			
Vizagapatam	1,846	33	55			
				24,553	4	28
Provincial Courts.						
Centre division	480	34	4			
Northern division	2,891	26	72			
Southern division	860	28	13			
Western division	1,138	23	69			
				5,371	22	78
Total, Pagodas ...				29,924	27	26

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
24th March 1817.

General Abstract Statement of Appeals and Causes, determined or adjusted by the Provincial Courts of Appeal, from January to June 1817, formed from the Monthly Abstract Registers, furnished by them conformably to Section 13, Regulation XIII, A. D. 1802.

Courts.	Appeals		Causes tried in the first instance.		Total.
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	
Centre Division........	25	2	8	..	35
Northern Division........	28	3	7	2	40
Southern Division........	28	1	2	..	31
Western Division........	5	..	2	..	7
Total....	86	6	19	2	113

Sudder Adawlut, Register's Office,
10th October 1817.

(Signed) W. OLIVER,
Register.

General Abstract Statement of Appeals and Causes determined or adjusted by the Provincial Courts of Appeal, from July to December 1817, formed from the Monthly Abstract Registers, furnished by them conformably to Section 13, Regulation XIII, A. D. 1802, shewing also the Amount Value of Property held under Decrees passed by those Courts in original Causes.

Courts.	Appeals		Causes tried in the first instance.		Total.	Amount of Property Decreed.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Pags.	F.	C.
Centre Division...	23	15	5	2	45	37,936	22	50
Northern Division.	16	1	4	7	28	2,25,184	40	35
Southern Division..	21	..	6	1	28	6,128	30	1
Western Division..	15	..	..	..	15	..	..	..
Total....	75	16	15	10	116	2,69,250	3	6

Errors Excepted.

Sudder Adawlut, Register's Office,
20th February 1818.

(Signed) R. CLARKE,
Acting Register.

General Report on the Reports furnished by the Provincial Courts, conformably to Section 14, Regulation XIII, A. D. 1802, of Causes and Appeals remaining undecided in their Courts on the 1st January 1818.

Courts.	Appeals.		Causes under Trial in the first instance.		Total.		Estimate Amount of Property in Litigation on the 1st January 1818.		
							Pagodas.	F.	C.
Centre Division	12		4		16		57,092	11	9½
Preceding half-yearly Report	..	32	..	6	..	38			
Northern Division	216		49		265		6,95,704	20	..
Preceding half-yearly Report	..	203	..	53	..	256			
Southern Division	105		19		124		1,91,064	27	18
Preceding half-yearly Report	..	98	..	16	..	114			
Western Division	128		26		154		1,13,690	33	20
Preceding half-yearly Report	..	117	..	25	..	142			
Total....	461		98		559		10,57,552	1	47½
Total of the preceding half-yearly........	450		100		550				

Errors Excepted.

Sudder Adawlut, Register's Office,
20th February 1818.

(Signed) R. CLARKE,
Acting Register.

General Abstract Statement of Causes decided in the Zillah Courts, from January . Judges, pursuant to Section 10,

Zillahs.	By the Judge, in Appeal from Decision of										By the Assistant Judge, in Appeal from Decision of				Tried, in the first instance, by					
	The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Register.		The Native Commissioners.		The Judge.		The Assistant Judge.		The Register.	
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.
Bellary	2	..	..	..	18	2	..	..	..	..	..	..	..	..	7	..	..	..	94	4
Canara	..	..	..	1	86	..	..	..	..	..	..	..	..	..	72	..	..	..	167	2
Chingleput	8	1	..	..	1	..	..	..	..	..	..	..	..	..	12	2	..	..	21	8
Chittoor	5	..	11	..	14	2	1	..	..	..	7	..	16	..	16	1	2	1	12	6
Cochin	..	..	..	..	..	..	..	..	..	..	..	..	..	..	5	2	..	..	..	..
Combaconum	11	..	52	2	..	..	..	..	..	..	3	..	12	..	33	3	12	4	14	2
Cuddapah	8	..	13	5	19	4	..	..	..	..	..	..	..	..	22	9	..	..	10	10
Darapooram	3	..	7	1	14	..	..	..	..	..	..	..	..	..	5	5	..	..	5	..
Ganjam	16	..	..	..	13	..	..	..	..	..	..	..	..	..	16	..	..	..	2	..
Guntoor	4	..	5	..	6	4	..	..	..	..	..	..	..	..	30	19	..	..	3	4
Madura	9	3	..	..	..	..	..	..	..	..	..	..	..	..	21	13	..	..	27	23
Malabar, North	18	..	8	..	..	..	..	..	..	..	..	..	..	..	174	6	..	..	79	7
Malabar, South	2	..	..	..	31	3	..	..	..	..	..	..	4	1	93	36	..	10	11	..
Masulipatam	4	..	29	1	8	..	..	..	..	..	..	..	..	..	13	4	..	..	32	17
Nellore	..	..	..	..	..	..	..	..	..	..	..	..	..	..	27	3	..	..	14	19
Rajahmundry	6	2	..	..	12	3	..	1	..	..	..	..	..	..	34	12	..	..	43	7
Salem	5	..	30	12	..	..	..	..	..	..	9	..	44	14	147	5	20	9	57	3
Seringapatam	2	..	..	..	..	..	..	..	..	..	..	..	..	..	5	..	..	..	39	..
Tinnevelly	..	..	1	..	5	..	..	..	..	..	..	..	..	..	12	2	..	..	11	1
Trichonopoly	4	..	28	3	3	..	..	..	..	..	..	..	..	..	9	3	..	..	31	6
Verdachellum	5	..	9	1	4	..	8	2	..	..	..	..	..	..	6	1	..	..	17	13
Vizagapatam	13	22	5	..	..	..	..	..	..	..	..	..	..	..	26	6	..	..	23	9
Total	125	28	198	26	234	18	9	3	..	..	19	..	76	15	785	132	34	24	712	141

Sudder Adawlut, Register's Office,
9th September 1817.

to June 1817, *formed from the Monthly Abstract Registers furnished by the Regulation* XXII, *A. D.* 1802.

Total before the Judge, Assistant Judge, and Register.	By the Sudder Aumeen, in Appeal from Decision of the Native Commissioners, &c.		Tried, in the first instance, by the Native Commissioners. The Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.		Total.	Total Native Commissioners.	Grand Total.
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.			
127	16	..	..	..	508	..	3,558	43	3	..	..	..	..	..	4,112	4,128	4 255
328	95	5	30	7	410	55	2,168	453	32	..	..	..	..	..	3,155	3,255	3,583
53	4	..	..	..	44	12	268	139	..	..	255	144	5	7	874	878	931
94	12	1	..	..	94	72	603	745	..	..	95	226	4	..	1,839	1,852	1,946
7	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	7
148	17	1	..	..	62	18	381	325	..	..	..	..	..	..	786	804	952
100	12	4	..	..	248	81	2,154	923	..	1	280	117	12	..	3,816	3,832	3,932
40	10	2	..	..	59	13	387	665	..	..	278	39	..	..	1,441	1,453	1,493
47	..	..	..	..	77	33	144	74	..	..	..	..	..	..	328	328	375
75	..	..	..	..	29	25	215	398	5	4	26	71	1	..	774	774	849
96		..	..	..	17	16	288	755	..	..	..	..	..	..	1,076	1,076	1,172
292	86	3	..	..	47	11	596	267	..	..	..	..	..	..	921	1,010	1,302
191	77	5	..	..	41	4	889	256	..	..	..	..	..	..	1,190	1,272	1,463
108	27	6	93	32	89	58	647	782	..	..	10	20	..	..	1,731	1,764	1,872
63	..	..	..	..	42	44	184	507	..	..	51	4	2	..	834	834	897
120	..	..	..	..	194	115	398	552	..	..	..	..	.	..	1,259	1,259	1,379
355	57	29	..	..	8	..	749	347	2	..	1,124	496	20	3	2,749	2,835	3,190
46	..	..	..	..	..	..	..	.	..	..	..	.	..	..	..	..	46
32	..	..	.	..	6	5	320	405	..	..	12	24	..	..	772	772	804
87	..	..	..	..	123	49	186	161	..	..	18	16	..	..	553	553	640
66	..	..	47	91	42	45	171	106	..	..	90	221	.	..	813	813	879
104	..	..	643	791	..	..	..	..	..	..	..	..	..	..	1,434	1,434	1,538
2,579	413	56	813	921	2,140	656	14,306	7,903	42	5	2,239	1,378	44	10	30,457	30,926	33,505

Errors Excepted.

(Signed) W. OLIVER,
Register.

General Abstract Statement of Causes decided in the Zillah Courts, from July to December 1817, Regulation XIII, A. D. 1802, shewing also the Amount Value

Zillahs.	By the Judge, in Appeal from Decision of										By the Assistant Judge, in Appeal from Decision of										Tried, in the first instance, by					
	The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Registers.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Village Moonsiffs.		The Judge.		The Assistant Judge.		The Register.	
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.
Bellary	2	..	..	..	21	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	11	1	..	..	122	3
Canara	21	5	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	15	..	..	..	72	15
Chingleput ..	3	..	..	..	3	..	2	..	..	..	..	..	..	..	..	..	..	..	..	..	11	5	..	..	58	39
Chittoor	40	3	4	..	24	3	2	..	..	..	12	2	5	..	7	2	..	..	..	..	17	9	12	..	30	12
Combaconum	..	..	45	3	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	15	3	..	..	15	2
Cuddapah	6	..	1	..	10	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	8	2	..	..	10	2
Darapooram ..	2	..	2	4	5	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	..	..	..	27	2
Ganjam	2	..	..	..	6	..	1	1	..	..	..	..	..	..	..	..	..	..	..	..	34	5	..	..	..	..
Guntoor	2	..	5	..	10	..	6	1	..	..	..	..	..	..	..	..	..	..	..	..	24	11	..	..	7	5
Madura	6	..	2	1	1	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	27	26	..	..	24	49
Malabar, North	8	..	6	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	59	1	..	..	60	21
Malabar, South	9	..	2	..	26	3	4	..	..	..	..	..	..	..	..	..	..	..	..	..	118	9	..	..	44	2
Masulipatam..	4	1	9	..	12	2	5	1	..	..	..	..	..	..	..	..	..	..	..	..	13	10	..	..	40	18
Nellore	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	12	1	..	..	20	15
Rajahmundry	13	..	..	..	28	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	22	24	..	..	3	6
Salem	4	1	19	1	..	..	..	..	..	..	3	..	13	3	..	..	..	..	..	..	36	..	..	..	42	20
Seringapatam	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	46	1
Tinnevelly....	6	..	1	..	1	..	11	..	..	..	..	..	..	..	..	..	..	..	..	..	12	1	..	..	13	2
Trichinopoly..	3	..	..	..	11	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	26	5	..	..	29	6
Verdachellum	10	..	..	..	27	6	11	4	..	..	..	..	..	..	..	..	..	..	..	..	7	5	..	..	17	12
Vizagapatam..	3	..	..	..	21	2	25	2	..	..	..	..	..	..	..	..	..	..	..	..	9	6	..	..	25	10
Total....	144	10	96	9	206	21	68	9	..	..	15	2	18	3	7	2	..	..	..	..	478	124	12	..	704	242

Sudder Adawlut, Register's Office,
20th February 1818.

formed from the Monthly Abstract Registers furnished by the Judges pursuant to Section 10, of Property held under Decrees passed in those Courts.

Total before the Judge, Assistant Judge, and Register.	By the Sudder Aumeen, in Appeal from Decision of the Native Commissioners, &c.		Tried, in the first instance, by the Native Commissioners.													Total Native Commissioners.	Grand Total.	Amount of Property Decreed.		
			Former Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.		Total.					
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.				S. Pags.	F.	C.
160	34	1	..	..	313	3	4,676	178	9	1	..	..	1	..	5,181	5,216	5,376	7,509	25	23
128	55	2	..	..	75	12	2,149	377	27	1	1,870	595	27	6	5,139	5,196	5,324	17,455	2	68
121	..	..	..	..	73	48	278	165	..	..	109	29	9	..	711	711	832	15,817	38	39
184	30	10	..	..	194	165	830	591	1	..	125	189	5	2	2,102	2,142	2,326	28,291	19	57
83	26	3	..	..	44	11	631	413	..	1	..	..	..	..	1,100	1,129	1,212	17,649	3	12
39	5	2	..	..	174	67	2,038	1,169	2	..	67	17	6	..	3,540	3,547	3,586	16,882	38	34
46	..	..	..	..	66	10	574	1,080	5	..	174	66	4	..	1,979	1,979	2,025	3,365	26	76
49	..	..	..	..	90	27	170	146	1	..	..	..	..	..	434	434	483	3,008	35	54
71	..	..	..	..	27	40	148	280	7	2	103	133	..	..	740	740	811	9,252	32	37
137	6	..	..	..	17	49	294	655	..	..	13	26	1	..	1,055	1,061	1,198	21,297	30	59
155	9	..	..	..	63	25	473	129	..	..	..	..	..	..	690	699	854	20,132	36	77
217	77	7	..	..	26	3	934	315	..	..	..	..	..	..	1,278	1,362	1,579	30,362	17	38
115	15	..	12	11	96	36	521	770	1	1	73	80	1	..	1,602	1,617	1,732	29,242	14	57
48	..	..	..	..	79	43	105	503	..	1	31	13	4	2	781	781	829	4,519	30	23
97	12	3	..	..	136	45	446	454	..	..	..	..	..	..	1,081	1,096	1,193	6,330	29	41
142	46	7	..	..	35	22	1,270	504	1	..	1,799	412	101	13	4,157	4,210	4,352	30,147	5	11
47	..	..	..	..	12	..	..	..	..	..	..	..	..	..	12	12	59	991	40	29
47	..	..	..	..	12	5	74	339	..	..	48	36	6	..	720	720	767	2,688	2	47
82	..	..	..	..	113	48	119	143	..	..	23	13	1	2	462	462	544	16,675	19	19
99	..	..	..	..	16	11	232	223	..	..	267	243	..	..	992	992	1,091	2,262	14	58
103	..	..	..	..	61	32	480	566	4	..	40	82	4	1	1,270	1,270	1,373	19,390	36	49
2,170	315	35	12	11	1,722	702	16,642	9,000	58	7	4,742	1,934	170	26	35,026	35,376	37,546	3,03,273	42	28

Errors Excepted.

(Signed) R. CLARKE,
Acting Register.

General Report of the Reports furnished by the Zillah Judges, conformably to Section 11, shewing also the estimated Amount of

Zillahs.	By the Judge, in Appeal from the Decision of					By the Assistant Judge, in Appeal from Decision of					Under Trial in the first instance before			Total before the Judge, Assistant Judge, and the Register.	
	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The Village Moonsiffs.	The former Commissioners.	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The Village Moonsiffs.	Former Commissioners.	The Judge.	The Assistant Judge.	The Register.		
Bellary	1	12	..	..	..	..	..	..	..	..	12	..	15	40	..
Preceding half yearly Report	..	18	..	..	..	..	..	..	..	..	8	..	43	69	
Canara	142	..	..	..	..	..	..	..	..	..	96	..	399	637	..
Preceding half-yearly Report	..	..	126	..	..	..	..	..	..	..	94	..	471	691	
Chingleput	18	17	17	..	..	..	..	..	..	..	13	..	38	103	..
Preceding half-yearly Report	17	9	2	..	..	..	..	..	..	..	14	..	11	53	
Chittoor	34	67	..	..	36	32	76	109	..	1	29	32	33	449	..
Preceding half-yearly Report	85	116	63	..	57	31	43	1	..	6	49	34	42	527	
Combaconum	7	..	..	..	41	..	..	..	..	..	37	..	13	98	..
Preceding half-yearly Report	2	..	..	..	73	..	..	..	..	..	49	..	14	138	
Cuddapah	27	92	10	..	13	..	..	..	..	..	77	..	22	241	..
Preceding half-yearly Report	27	82	..	21	..	..	..	..	..	..	68	..	36	234	
Darapooram	3	16	37	..	11	..	..	..	..	..	20	..	29	116	..
Preceding half-yearly Report	5	18	11	..	16	..	..	..	..	..	13	..	55	118	
Ganjam	..	6	6	..	1	..	..	..	..	..	26	..	..	39	..
Preceding half-yearly Report	2	4	2	..	1	..	..	..	..	..	19	..	9	37	
Guntoor	..	..	..	..	..	..	..	..	..	..	11	..	1	12	..
Preceding half-yearly Report	..	4	6	..	..	..	..	..	..	..	23	..	..	33	
Madura	..	2	3	..	..	..	..	..	..	..	57	..	23	85	..
Preceding half-yearly Report	3	..	..	..	3	..	..	..	..	..	20	..	23	49	
Malabar, North	14	14	10	..	..	..	..	..	..	..	27	..	39	104	..
Preceding half-yearly Report	19	16	3	..	3	..	..	..	..	..	57	..	26	124	
Malabar, South	2	6	..	..	..	..	..	..	..	..	43	..	14	65	..
Preceding half-yearly Report	4	32	..	..	1	..	..	..	..	..	61	..	40	138	
Masulipatam	13	23	33	..	3	..	..	..	..	..	10	..	24	106	..
Preceding half-yearly Report	8	16	13	..	10	..	..	..	..	..	16	..	27	90	
Nellore	3	8	14	..	..	..	..	..	..	..	22	..	27	74	..
Preceding half-yearly Report	..	1	8	..	..	..	..	..	..	..	17	..	50	76	
Rajahmundry	37	164	6	..	..	..	..	..	..	..	345	..	247	799	..
Preceding half-yearly Report	43	171	18	..	..	..	..	..	..	..	341	..	237	810	
Salem	45	..	..	..	114	8	..	..	..	12	44	3	20	246	..
Preceding half-yearly Report	31		..	..	93	9	..	..	..	30	32	3	37	235	
Seringapatam	..	..	..	..	..	..	..	..	..	..	39	..	..	39	..
Preceding half-yearly Report	..	..	..	..	..	..	..	..	..	..	5	..	..	57	
Tinnevelly	1	..	3	..	..	..	..	..	..	..	10	..	2	16	..
Preceding half-yearly Report	3	1	7	..	..	..	..	..	..	..	7	..	14	32	
Trichinopoly	11	26	22	..	..	..	..	..	..	..	21	..	14	94	..
Preceding half-yearly Report	12	33	13	..	2	..	..	..	..	..	25	..	18	113	
Verdachellum	7	..	..	..	58	..	..	..	..	..	45	..	23	133	..
Preceding half-yearly Report	15	..	..	..	83	..	..	..	..	..	46	..	32	176	
Vizagapatam	7	1	26	..	..	..	..	..	..	..	21	..	14	69	..
Preceding half-yearly Report	3	..	..	..	30	..	..	..	..	..	24	..	25	82	
Total	372	454	187	..	277	40	76	109	..	13	1,005	35	997	3,565	..
Total preceding half-yearly Report	279	521	272	21	372	40	43	1	..	36	1,050	37	1,210	3,882	..

Sudder Adawlut, Register's Office,
20th February 1818.

Regulation XIII, 1802, of Causes depending in their Courts, on the 1st January 1818; Property in Litigation in those Courts.

	Before the Sudder Aumeen, in Appeal from the Decision of the District Moonsiff, &c.	Under Trial in the first instance before the Sudder Aumeens.	District Moonsiffs.	District Punchayets.	Village Moonsiffs.	Village Punchayets.	Former Commissioners.	Total.	Total Native Commissioners.	Grand Total.	Total preceding half-yearly Report.	Estimate Amount of Property in Litigation, on the 1st January 1818. Pags. F. C.
..	17	85	..	..	..	..	..	85	102	142	..	6,140 2 68
	.. 22	.. 215	.. 1	..	..	..	..	.. 216	.. 238	..	.. 307	
..	128	112	..	571	..	..	..	683	811	1,448	..	41,228 30 17
	.. 62	.. 189	.. 1,019	..	..	..	..	.. 1,208	.. 1,270	..	.. 1,961	
..	..	41	96	2	1	..	..	140	140	243	..	10,401 35 56
	..	.. 35	.. 323	.. 1	.. 32	..	..	.. 381	.. 381	..	.. 434	
..	11	143	936	..	246	3	..	1,328	1,339	1,788	..	47,232 11 36
	.. 21	.. 149	.. 173	..	..	..	..	.. 1,322	.. 1,343	..	.. 1,870	
..	14	40	570	7	..	..	..	617	631	729	..	24,600 34 34
	.. 16	.. 38	.. 538	..	..	..	..	.. 576	.. 592	..	.. 730	
..	..	120	2,068	..	..	..	..	2,188	2,188	2,429	..	31,574 38 8
	..	.. 139	.. 1,630	..	..	..	..	.. 1,769	.. 1,769	..	.. 2,003	
..	..	47	772	..	75	..	..	894	894	1,010	..	8,976 7 32
	..	.. 55	.. 394	..	.. 86	..	..	.. 535	.. 535	..	.. 653	
..	..	55	245	..	..	..	..	300	300	339	..	6,266 42 78
	..	.. 123	.. 184	.. 1	..	..	..	.. 308	.. 308	..	.. 345	
..	..	9	150	8	191	..	..	358	358	370	..	8,820 20 32
	..	.. 40	.. 200	..12	.. 156	..	..	.. 408	.. 408	..	.. 441	
..	..	79	186	..	..	..	..	265	265	350	..	7,064 20 45
	.. 55	.. 431	..	..	..	..	..	.. 431	.. 486	..	.. 535	
..	3	63	1,295	..	..	..	..	1,358	1,361	1,465	..	26,588 12 38
	.. 14	.. 61	.. 1,277	..	..	..	..	.. 1,338	.. 1,352	..	.. 1,476	
..	65	82	1,092	..	..	..	..	1,174	1,239	1,304	..	54,605 28 28
	.. 89	.. 75	.. 897	..	..	..	..	.. 972	.. 1,061	..	.. 1,199	
..	6	117	1,273	..	..	..	44	1,434	1,440	1,546	..	20,540 12 57
	.. 19	.. 142	.. 927	..	..	..	.. 70	.. 1,139	.. 1,158	..	.. 1,248	
..	..	67	297	..	3	1	..	368	368	442	..	16,782 35 10
	..	.. 140	.. 198	..	..	..	..	.. 338	.. 338	..	.. 414	
..	..	520	28	..	..	..	..	548	548	1,347	..	1,52,310 42 29
	..	.. 686	..	..	..	..	..	.. 686	.. 686	..	.. 1,496	
..	22	20	970	1	161	..	..	1,152	1,174	1,420	..	38,867 41 60
	.. 28	.. 30	.. 643	.. 2	.. 979	.. 5	..	.. 1,659	.. 1,687	..	.. 1,922	
..	..	..	..	..	..	..	..	..	..	39	..	3,928 36 60
	..	..	..	..	..	..	..	..	..	..	.. 57	
..	..	4	459	3	137	..	..	603	603	619	..	2,823 8 47
	..	.. 14	.. 380	.. 2	.. 68	..	..	.. 464	.. 464	..	.. 496	
..	..	31	222	..	[illegible]	..	..	253	253	347	..	12,966 23 20
	..	.. 103	.. 116	..	.. 4	..	..	.. 223	.. 223	..	.. 336	
..	..	36	517	..	..	..	..	553	553	686	..	26,279 4 0
	..	.. 41	.. 540	..	..	..	..	.. 581	.. 581	..	.. 757	
..	..	64	741	6	34	3	..	848	848	917	..	27,297 35 0
	..	..	..	..	..	..	..822	.. 822	.. 822	..	.. 904	
..	266	1,735	11,917	598	848	7	44	15,149	15,415	18,980	..	5,40,327 29 35
..	..326	.. 2,706	.. 10,440	..18	.. 1,315	.. 5	..892	.. 15,376	.. 15,702	..	.. 19,584	

Errors Excepted.

(Signed) R. CLARKE,
Acting Register.

Appeals decided by the SUDDER ADAWLUT *from January to June* 1817.

Decreed or dismissed........................	7
Adjusted by Razeenamahs of the parties ...	1
Total	8

(Signed) W. OLIVER,
Register.

Appeals decided by the SUDDER ADAWLUT *from July to December* 1817.

Decreed or dismissed	8
Adjusted by Razeenamahs	2
Total	10

(Signed) R. CLARKE,
Acting Magistrate.

General

General Abstract of Criminal Trials on which Sentences were passed by the Foujdarry Adawlut, from January to December 1817.

Divisions.	Zillahs.	Number of Trials for			Number of Prisoners on whom Sentence has been passed.							Total.
							Totals.					
		1816.	1817.	Total.	1816.	1817.	Death.	Trans-portation.	Imprison-ment.	Released on Security.	Released.	
Centre Division	Chittoor	7	5	12	10	7	4	3	6	...	4	17
	Bellary	...	13	13	...	32	4	2	8	2	16	32
	Cuddapah	...	7	7	...	14	4	...	4	2	4	14
	Chingleput	...	1	1	...	1	...	...	...	...	1	1
Northern Division	Masulipatam	...	2	2	...	9	2	...	3	3	1	9
	Nellore	...	1	1	...	6	...	...	...	...	6	6
	Guntoor	...	6	6	...	6	...	...	...	...	6	6
	Rajahmundry	...	2	2	...	2	...	...	...	...	2	2
	Vizagapatam	...	3	3	...	3	...	...	...	...	3	3
	Ganjam	...	4	4	...	5	...	1	1	1	3	5
Southern Division	Trichinopoly	...	2	2	...	2	1	1	...	...	...	2
	Combaconum	...	1	1	...	3	...	...	...	...	3	3
	Verdachellum	...	...	...	...	...	...	...	...	...	...	...
	Salem	...	4	4	...	5	1	...	1	...	3	5
	Darapooram	...	...	...	...	...	...	...	...	...	...	...
	Madura	...	1	1	...	2	1	1	...	...	...	2
	Tinnevelly	1	2	3	2	2	...	1	...	...	3	4
Western Division	North Malabar	1	5	6	1	11	...	1	...	1	10	12
	South Malabar	11	6	17	28	13	8	...	3	7	23	41
	Canara	...	7	7	...	19	12	...	4	...	3	19
	Cochin	2	...	2	7	...	...	...	1	...	6	7
	Seringapatam	...	1	1	...	1	1	...	...	...	...	1
	Total	22	73	95	48	143	38	10	31	15	97	191

(Signed) ROB^T. ANDERSON,
Deputy Register.

An Account shewing the Amount of Fees collected and carried to the A Government on the Institution and Trial of Suits and Appeals fro January to 12th July 1817.*

	Fees collected in 1817.			Totals.		
	S. Pags.	F.	C.	S. Pags.	F.	C.
Centre division	271	34	67			
Northern division	4,190	39	76			
Southern division	1,465	7	12			
Western division	613	42	14			
				6,541	34	9
Bellary	443	21	1			
Canara	1,348	2	21			
Chingleput	680	27	75			
Chittoor	530	19	57			
Combaconum	302	28	46			
Cuddapah	784	28	47			
Darapooram	374	34	46			
Ganjam	332	15	76			
Guntoor	604	27	60			
Madura	1,798	9	50			
Malabar, North	1,081	31	16			
Malabar, South	816	28	48			
Masulipatam	1,035	29	13			
Nellore	801	37	46			
Rajahmundry	2,866	43	0			
Salem	932	24	6			
Seringapatam	108	36	51			
Tinnevelly	272	29	24			
Trichinopoly	1,672	3	5			
Verdachellum	413	35	44			
Vizagapatam	674	15	13			
				17,876	34	25
Total, Star Pagodas				24,418	23	34

Errors Excepted.

(Signed) R. CLARKE,
Acting Register.

Sudder Adawlut, Register's Office,
24th March 1818.

* The account of fees collected from 12 July to Dec. 1817, not sent home.

General Abstract Statement of Appeals and Causes, determined or adjusted by the Provincial Courts of Appeal, from January to June 1818, *formed from the Monthly Abstract Registers, furnished by them conformably to Section* 13, *Regulation XIII, A. D.* 1802.

Courts.	Appeals		Causes tried in the first instance.		Total.
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	
Centre Division..........	10	..	3	..	13
Southern Division........	20	..	3	..	23
Northern Division........	22	5	2	2	31
Western Division........	16	..	5	1	22
Total....	68	5	13	3	89

Errors Excepted.

Sudder Adawlut, Register's Office, 30th September 1818. (Signed) R. CLARKE, Acting Register.

General Abstract Statement of Appeals and Causes determined or adjusted by the Provincial Courts of Appeal, from 1st July to 31st December 1818, *formed from the Monthly Abstract Registers, furnished by them conformably to Section* 13, *Regulation XIII, A. D.* 1802, *shewing also the Amount Value of Property held under Decrees passed by those Courts in original Causes.*

Courts.	Appeals		Causes tried in the first instance.		Total.	Amount of Property Decreed.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Pags.	F.	C.
Centre Division...	19	..	5	..	24	71,467	14	0
Northern Division.	33	2	2	1	38	1,68,270	0	5
Southern Division.	18	1	6	..	25	42,301	1	10
Western Division..	13	1	7	..	21	39,311	9	8
Total....	83	4	20	1	108	3,21,350	9	11

Errors Excepted.

Sudder Adawlut, Register's Office, 31st March 1819. (Signed) W. OLIVER, Register.

General Report on the Reports furnished by the Provincial Courts of Appeals, conformably to Section 14, *Regulation XIII, A. D.* 1802, *of Causes and Appeals remaining undecided in their Courts on the 31st December* 1818, *shewing the estimated Amount of Property in Litigation in those Courts.*

Courts.	Appeals.		Causes under Trial in the first instance.		Total.		Amount in Litigation.		
							Rupees.	A.	P.
Centre Division	10		4		14		50,114	8	2
Preceding half-yearly Report	..	15	..	2	..	17			
Northern Division	201		49		250		23,46,945	1	5
Preceding half-yearly Report	..	217	..	51	..	268			
Southern Division	103		19		122		8,13,981	8	11
Preceding half-yearly Report	..	105	..	23	..	128			
Western Division	128		20		148		3,20,618	4	10
Preceding half-yearly Report	..	132	..	22	..	154			
Total....	442		92		534		35,31,659	7	4
Total preceding half-yearly Report....		469		98		567			

Errors Excepted.

Sudder Adawlut, Register's Office, 31st March 1819. (Signed) W. OLIVER, Register.

General Abstract Statement of Causes decided in the Zillah Courts, from January to Judges, pursuant to Section 10,

Zillahs.	By the Judge, in Appeal from Decision of								By the Assistant Judge, in Appeal from Decision of								Tried, in the first instance, by					
	The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Registers.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Judge.		The Assistant Judge.		The Register.	
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.
Bellary	..	..	..	..	7	..	..	..	..	..	..	..	..	..	..	..	33	..	..	..	1	..
Canara	38	2	..	..	44	..	7	..	..	..	..	..	..	..	..	..	67	..	..	..	190	27
Chingleput	6	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	5	2	..	..	31	10
Chittoor	15	1	1	..	12	..	6	..	12	..	..	..	30	..	2	..	8	5	17	..	3	..
Combaconum	3	..	..	..	16	..	..	..	..	..	..	..	..	..	..	..	13	..	..	..	41	15
Cuddapah	2	..	1	..	18	1	2	..	..	..	..	..	..	..	..	..	23	5	..	..	37	10
Darapooram	2	..	7	..	12	..	3	..	..	..	..	..	..	..	..	..	4	..	..	..	4	..
Ganjam	..	..	..	..	7	..	7	..	..	..	..	..	..	..	..	..	24	2	..	..	1	1
Guntoor	..	..	..	..	1	..	5	..	..	..	..	..	..	..	..	..	11	4	..	..	5	6
Madura	5	1	..	..	3	..	14	1	..	..	..	..	..	..	..	..	31	14	..	..	41	29
Malabar, North	10	..	3	..	14	..	5	..	..	..	..	..	..	..	..	..	41	2	..	..	56	6
Malabar, South	7	..	..	..	14	..	..	..	..	..	..	..	..	..	..	..	83	3	..	..	22	1
Masulipatam	8	1	3	..	17	..	25	1	..	..	..	..	..	..	..	..	8	2	..	..	38	25
Nellore	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	18	3	..	..	18	5
Rajahmundry	4	1	..	..	27	1	18	2	..	..	..	..	..	..	..	..	25	3	..	..	..	..
Salem	17	3	16	4	..	..	..	..	..	..	..	..	..	..	..	..	24	6	..	..	29	4
Seringapatam	3	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	9	..	..	..	42	..
Tinnevelly	1	..	..	..	1	..	8	1	..	..	..	..	..	..	..	..	20	2	..	..	..	..
Trichinopoly	..	1	..	2	19	2	8	..	..	..	..	..	..	..	..	..	20	2	..	..	15	2
Verdachellum	..	..	..	..	7	1	22	6	..	..	..	..	..	..	..	..	11	4	..	..	13	4
Vizagapatam	7	..	..	..	4	..	37	2	..	..	..	..	..	..	..	..	13	5	..	..	..	1
Total	128	10	31	6	223	5	167	13	12	..	..	..	30	..	2	..	491	64	17	..	587	146

Sudder Adawlut, Register's Office,
30th September 1818.

June 1818, *formed from the Monthly Abstract Registers furnished by the Zillah Regulation XIII, A. D.* 1802.

	Total before the Judge, Assistant Judge, and Register.	By the Sudder Aumeen, in Appeal from Decision of the Native Commissioners, &c.		Tried, in the first instance, by the Native Commissioners. Former Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.		Total.	Total Native Commissioners.	Grand Total.
		Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.			
..	41	25	..	..	..	207	8	2,440	23	1	..	27	..	..	..	2,706	2,731	2,772
..	375	59*	2	..	..	80	13	1,335	259	5	..	1,086	196	27	3	3,004	3,065	3,440
..	54	..	..	..	..	36	14	363	132	1	1	94	12	3	..	656	656	710
..	112	27	6	..	..	121	132	671	572	..	1	146	223	3	4	1,873	1,906	2,018
..	88	12	..	8	2	74	26	604	204	1	6	37	27	..	..	989	1,001	1,089
..	99	12	..	..	..	153	99	2,169	1,519	2	..	68	15	2	1	4,028	4,040	4,139
..	32	..	..	..	..	89	14	540	782	..	..	106	25	..	..	1,556	1,556	1,588
..	42	..	..	..	..	58	20	114	94	..	..	..	..	..	..	286	286	328
..	32	..	..	..	..	26	32	124	209	..	..	159	110	..	..	660	660	692
..	139	1	..	..	..	33	48	262	612	..	..	8	2	2	1	968	969	1,108
..	137	3	..	..	..	84	15	800	322	..	..	..	..	..	..	1,221	1,224	1,361
..	130	37	1	..	..	2	..	317	85	..	..	..	..	..	..	404	442	571
..	128	5	..	..	..	119	30	165	459	1	..	27	25	..	1	827	832	960
..	44	..	..	..	..	57	14	153	463	1	2	38	18	..	1	747	747	791
..	81	6	1	..	..	130	17	440	384	..	..	..	..	..	..	971	978	1,059
..	103	32	3	..	..	25	7	883	394	7	..	1,048	194	33	..	2,591	2,626	2,729
..	54	..	..	..	..	12	..	..	..	..	..	..	..	..	..	12	12	66
..	33	..	..	..	..	7	2	246	260	1	..	23	18	1	..	558	558	591
..	71	..	..	..	..	75	14	135	106	..	..	49	9	..	..	388	388	459
..	68	..	..	..	..	8	14	198	186	1	..	308	220	..	..	935	935	1,003
..	69	..	..	..	..	37	17	581	558	..	3	25	26	1	..	1,248	1,248	1,317
..	1,932	219	13	8	2	1,433	536	12,540	7,623	21	13	3,249	1,120	72	11	26,628	26,860	28,792

Errors Excepted.

(Signed) R. CLARKE,
Acting Register.

General Abstract Statement of Causes decided in the Zillah Courts, from July to December 1818, *Regulation XIII, A. D.* 1802, *shewing also the Amount Value*

Zillahs.	By the Judge, in Appeal from the Decision of								By the Assistant Judge, in Appeal from the Decision of								By the Register, in Appeal from Decision of the District Moonsiffs.		Tried, in the first Instance, by						
	The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.				The Judge.		The Assistant Judge.		The Register.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	
Bellary	..	..	..	..	14	..	11	..	..	..	..	..	..	..	..	..	..	..	42	4	..	..	..	..	..
Canara	20	..	..	..	20	..	5	..	..	..	..	..	..	..	..	..	..	..	80	3	..	..	52	10	..
Chingleput	9	2	..	..	4	..	..	..	..	..	..	..	..	..	..	..	36	1	7	1	..	..	38	10	..
Chittoor	10	2	..	..	20	3	9	1	13	..	1	..	24	..	17	2	..	..	6	3	23	1	31	4	..
Combaconum	4	..	..	..	20	2	1	..	..	..	..	..	..	..	..	..	..	..	33	2	..	..	65	4	..
Cuddapah	6	..	2	..	9	..	5	1	..	..	..	..	..	..	..	..	..	..	15	4	..	..	20	10	..
Darapooram	2	..	3	..	10	..	22	1	..	..	..	..	..	..	..	..	..	..	8	..	..	..	12	1	..
Ganjam	3	..	..	..	9	..	10	..	..	..	..	..	..	..	..	..	..	..	10	5	..	..	22	8	..
Madura	2	1	..	..	..	..	6	..	..	..	..	..	..	..	..	..	..	..	14	6	..	..	16	6	..
Makbar, North	13	1	..	..	11	..	6	..	..	..	..	..	..	..	..	..	7	1	34	3	..	..	50	7	..
Malabar, South	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	21	..	..	..	32	1	..
Masulipatam	4	2	1	..	7	..	6	1	..	..	..	..	..	..	..	..	..	..	21	4	..	..	30	11	..
Nellore	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	9	1	..	..	33	11	..
Rajahmundry	1	1	1	..	25	1	3	..	..	..	..	..	..	..	..	..	..	..	112	26	..	..	6	..	..
Salem	16	2	18	4	..	..	..	..	..	..	..	..	..	..	..	..	10	4	38	11	..	..	22	15	..
Seringapatam	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	..	..	..	38	..	..
Tinnevelly	1	..	..	..	1	1	6	1	..	..	..	..	..	..	..	..	..	..	9	5	..	..	4	3	..
Trichinopoly	14	..	..	..	8	2	..	..	..	..	..	..	..	..	..	..	10	1	7	..	..	..	27	6	..
Verdachellum	5	1	..	..	14	1	..	..	..	..	..	..	..	..	..	..	..	..	70	2	..	..	20	11	..
Vizagapatam	1	..	..	..	13	..	34	6	..	..	..	..	..	..	..	..	..	..	20	7	..	..	3	..	..
Total	112	12	24	4	185	10	124	16	13	..	1	..	24	..	17	2	63	7	496	87	23	1	521	118	..

Sudder Adawlut, Register's Office,
31st March 1819.

formed from the Monthly Abstract Registers furnished by the Judges pursuant to Section 10, *of Property held under Decrees passed in those Courts.*

	Total by the Judge, Assistant Judge, and Register.	By the Sudder Aumeen, in Appeal from Decision of the Native Commissioners, &c.		Tried, in the first instance, by the Native Commissioners. Former Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.		Total.	Total Native Commissioners.	Grand Total.	Amount of Property Decreed.		
		Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.				Rupees.	A.	P.
..	71	..	..	..	..	295	5	3,047	20	3	..	8	..	..	..	3,738	3,738	3,809	18,256	12	7
..	190	82	1	..	..	72	8	686	136	3	7	1,068	199	33	7	2,219	2,302	3,492	27,571	12	3
..	113	..	..	..	..	33	12	344	154	1	..	60	11	5	..	620	620	733	45,370	4	12
..	170	37	11	..	..	189	170	643	615	..	..	233	173	7	..	2,030	2,078	2,252	93,729	15	3
..	131	24	1	..	..	43	6	610	221	3	2	129	76	4	..	1,094	1,119	1,250	51,936	6	6
..	72	20	38	..	..	127	89	1,725	1,298	..	..	27	18	..	..	3,284	3,342	3,414	75,529	14	3
..	59	..	..	..	..	108	28	573	553	..	..	80	20	..	..	1,362	1,362	1,421	16,532	13	2
..	67	..	..	..	..	57	25	174	128	1	..	..	..	..	..	385	385	452	13,715	3	0
..	51	..	..	..	..	4	17	260	714	..	2	13	19	3	1	1,033	1,033	1,084	52,475	14	6
..	133	..	..	..	..	51	4	646	188	..	..	..	..	..	..	889	889	1,022	49,150	7	6
..	54	..	..	..	..	..	..	711	330	..	..	..	..	..	..	1,041	1,041	1,095	46,011	2	5
..	87	..	..	..	..	98	39	559	1,278	..	3	140	144	..	..	2,261	2,261	2,348	78,142	0	10
..	54	..	..	..	..	20	15	296	579	1	1	18	11	1	..	942	942	996	16,428	15	10
..	175	29	..	..	..	99	19	414	325	..	..	..	..	..	..	857	886	1,061	15,377	12	3
..	140	1	2	..	..	57	16	1,102	660	..	..	734	116	47	..	2,732	2,735	2,875	87,676	12	11
..	42	..	..	..	..	15	..	..	..	..	..	..	..	..	..	15	15	57	20,175	5	6
..	31	..	..	..	..	3	2	320	288	1	..	36	18	3	1	672	672	703	2,424	15	7
..	75	..	..	..	..	64	24	135	186	1	..	21	14	..	..	445	445	520	8,177	7	2
..	61	..	..	..	..	17	12	171	198	2	6	139	113	..	..	658	658	719	11,002	2	3
..	84	..	..	..	..	39	8	494	434	3	1	30	29	2	1	1,041	1,041	1,125	56,634	15	9
..	1,860	193	53	..	..	1,391	499	13,270	8,305	19	22	2,736	961	105	10	27,318	27,564	29,424	7,68,321	2	6

Errors Excepted.

(Signed) W. OLIVER,
Register.

General Report of the Reports furnished by the Zillah Judges, conformably to Section 11, shewing also the estimated Amount of

Zillahs.	Before the Judge, in Appeal from the Decision of				Before the Assistant Judge, in Appeal from the Decision of				Before the Register, in Appeal from the Decision of the District Moonsiffs.	Under Trial in the first instance before			Total before the Judge, Assistant Judge, and the Register.	
	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The former Commissioners.	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The former Commissioners.		The Judge.	The Assistant Judge.	The Register.		
Bellary	2	21	11	..	..	..	..	..	..	21	..	..	55	..
Preceding half yearly Report	.. 2	.. 17	.. 11	..	..	..	..	..	..	.. 19	..	..	.. 49	
Canara	206	..	..	..	..	..	..	..	10	92	..	136	444	..
Preceding half-yearly Report	..112	..	..	..	..	..	..	..	..	.. 82	..	..179	.. 373	
Chingleput	18	21	5	..	..	..	..	..	5	22	..	17	88	..
Preceding half-yearly Report	.. 20	.. 19	.. 33	..	..	..	..	..	..	.. 20	..	.. 5	.. 97	
Chittoor	23	89	111	1	..	..	..	..	..	46	..	16	286	..
Preceding half-yearly Report	.. 26	.. 66	.. 50	.. 1	..19	..49	..60	.. 2	..	.. 21	34	.. 33	.. 361	
Combaconum	8	18	16	..	..	..	..	..	..	29	..	6	77	..
Preceding half-yearly Report	.. 10	.. 32	.. 1	..	..	..	..	..	..	.. 36	..	.. 45	.. 124	
Cuddapah	25	84	23	9	..	..	..	..	..	64	..	80	285	..
Preceding half-yearly Report	.. 28	.. 88	.. 22	.. 13	..	..	..	..	..	.. 71	..	.. 38	.. 260	
Darapooram	4	24	63	1	..	..	..	..	..	14	..	25	131	..
Preceding half-yearly Report	.. 4	.. 18	.. 64	.. 4	..	..	..	..	..	.. 20	..	.. 31	.. 141	
Ganjam	5	3	2	1	..	..	..	..	..	21	..	28	60	..
Preceding half-yearly Report	..	.. 3	.. 2	.. 1	..	..	..	..	..	.. 13	..	.. 16	.. 35	
Guntoor	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Preceding half-yearly Report	.. 1	.. 1	.. 3	..	..	..	..	..	..	.. 12	..	.. 2	.. 19	
Madura	2	1	5	..	..	..	..	..	..	26	..	13	47	..
Preceding half-yearly Report	.. 2	..	.. 2	..	..	..	..	..	..	.. 40	..	.. 20	.. 64	
Malabar, North	5	6	8	..	..	..	..	..	4	28	..	23	74	..
Preceding half-yearly Report	.. 7	.. 6	.. 7	..	..	..	..	..	..	.. 20	..	.. 42	.. 82	
Malabar, South	7	14	..	..	..	..	..	..	..	23	..	16	60	..
Preceding half-yearly Report	.. 7	.. 14	..	..	..	..	..	..	..	.. 23	..	.. 1	.. 45	
Masulipatam	22	33	31	..	..	..	..	..	..	9	..	39	134	..
Preceding half-yearly Report	.. 19	.. 23	.. 26	.. 1	..	..	..	..	..	.. 11	..	.. 42	.. 122	
Nellore	6	21	3	..	..	..	..	..	11	14	..	6	61	..
Preceding half-yearly Report	.. 6	.. 19	.. 13	..	..	..	..	..	..	.. 15	..	.. 29	.. 82	
Rajahmundry	24	116	5	..	..	..	..	..	..	308	..	239	692	..
Preceding half-yearly Report	.. 32	..145	. 16	..	..	..	..	..	..	..386	..	..243	.. 822	
Salem	31	133	..	..	..	..	..	..	10	46	..	23	243	..
Preceding half-yearly Report	.. 36	..	..	..109	..	..	..	..	..	.. 47	..	.. 36	.. 828	
Seringapatam	4	..	..	..	..	..	..	..	..	6	..	25	35	..
Preceding half-yearly Report	.. 5	..	..	..	..	..	..	..	..	.. 4	..	.. 24	.. 33	
Tinnevelly	..	1	3	..	..	..	..	..	..	26	..	10	40	..
Preceding half-yearly Report	1	.. 2	.. 3	..	..	..	..	..	..	.. 12	..	.. 7	.. 25	
Trichinopoly	7	20	10	..	..	..	..	..	..	17	..	16	70	..
Preceding half-yearly Report	.. 16	.. 15	.. 16	..	..	..	..	..	..	.. 13	..	.. 18	.. 78	
Verdachellum	3	35	..	..	..	..	..	..	..	37	..	15	90	..
Preceding half-yearly Report	... 8	..	.. 31	..	..	..	..	..	..	.. 37	..	.. 12	.. 88	
Vizagapatam	..	..	12	..	..	..	..	..	.	35	..	14	61	..
Preceding half-yearly Report	.. 1	2	.. 24	..	..	..	..	..	.	.. 32	..	.. 14	.. 73	
Total	402	640	308	12	..	..	..	..	40	884	..	747	3,033	..
Total preceding half-yearly Report....	..343	..470	..324	..129	..19	..49	..60	.. 2	..	..934	..34	..837	..3,201	..

Sudder Adawlut, Register's Office,
31st March 1819.

Regulation XIII of 1802, *of Causes depending in their Courts, on the* 1*st January* 1819 ;
Property in Litigation in those Courts.

	Before the Sudder Aumeen, in Appeal from the Decision of the District Moonsiffs.	Under Trial in the first instance before the Sudder Aumeens.	District Moonsiffs.	District Punchayets.	Village Moonsiffs.	Village Punchayets.	Former Commissioners.	Total.	Total Native Commissioners.	Grand Total.	Total preceding half-yearly Report.	Estimated Amount of Property in Litigation, on the 1st January. Rupees.	A.	P.
..	3	149	..	..	..	..	..	149	152	207	..	24,102	0	5
	..	.. 92	..	..	..	..	..	.. 92	.. 92	..	.. 141			
..	..	130	2,224	14	..	..	..	2,368	2,368	2,812	..	1,11,197	7	0
	.. 114	.. 61	.. 2,261	.. 10	..	..	..	.. 2,332	.. 2,446	..	.. 2,819			
..	..	20	55	6	2	1	..	84	84	172	..	54,540	10	3
	..	.. 22	.. 90	. 5	.. 1	. 1	..	.. 119	.. 119	..	.. 216			
..	5	129	1,086	..	..	..	..	1,215	1,220	1,506	..	1,23,153	9	4
	.. 50	.. 192	.. 852	..	..	..	..	.. 1,044	.. 1,094	..	.. 1,455			
..	16	20	348	3	72	..	..	443	459	536	..	63,3[illegible]0	8	10
	.. 31	.. 65	.. 333	.. 8	.. 37	.. 4	..	.. 447	.. 478	..	.. 602			
..	..	128	1,698	..	..	..	..	1,826	1,826	2,111	..	1,33,407	2	0
	..	.. 138	.. 1,841	..	..	..	..	.. 1,979	.. 1,979	..	.. 2,239			
..	..	125	510	1	..	..	..	636	636	767	..	33,560	13	3
	..	.. 86	.. 612	..	..	..	..	.. 698	.. 698	..	.. 839			
..	..	58	257	..	..	..	..	315	315	375	..	28,705	14	7
	..	.. 47	.. 304	.. 1	..	..	..	.. 352	.. 352	..	.. 387			
..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	..	..	.. 132	.. 6	.. 212	.. 1	..	.. 351	.. 351	..	.. 370			
..	..	7	473	..	..	..	..	480	480	527	..	63,647	15	8
	..	.. 10	.. 424	..	..	..	..	.. 434	.. 434	..	.. 498			
..	..	40	1,517	..	..	..	..	1,557	1,557	1,631	..	74,95[illegible]	2	0
	..	.. 43	.. 1,546	..	..	..	..	.. 1,589	.. 1,589	..	.. 1,671			
..	111	145	1,417	..	..	..	..	1,562	1,673	1,733	..	2,24,986	14	8
	.. 59	.. 146	.. 1,456	..	..	..	..	.. 1,602	.. 1,661	..	.. 1,706			
..	..	92	1,457	5	..	..	16	1,570	1,570	1,704	..	59,187	12	10
	..	.. 57	1,518	..	..	..	.. 16	.. 1,591	.. 1,591	..	.. 1,713			
..	..	15	125	1	..	1	..	142	142	203	..	38,548	5	10
	1	.. 23	.. 361	. 1	.. 1	..	..	... 386	... 387	..	.. 469			
..	35	384	..	..	..	..	..	384	419	1,111	..	5,35,500	6	9
	.. 16	.. 434	..	..	..	..	..	.. 434	.. 450	..	.. 1,272			
..	21	1,183	3	..	..	..	..	1,186	1,207	1,450	..	83,446	8	9
	.. 3	.. 9	.. 1,122	.. 2	..	..	..	.. 1,133	.. 1,136	..	.. 1,364			
..	..	11	..	..	..	.	..	11	11	46	..	12,947	7	0
	..	.. 8	..	..	..	..	..	.. 8	.. 8	..	.. 41			
..	..	6	369	2	125	..	..	592	502	542	..	18,344	14	0
	..	.. 2	.. 404	. 2	.. 136	..	..	.. 544	.. 541	..	.. 569			
..	..	27	118	.	..	.	..	145	145	215	..	37,899	7	2
	..	.. 55	.. 152	..	.. 11	..	..	.. 218	.. 218	..	.. 296			
..	..	46	680	..	..	.	..	726	726	816	..	1,03,773	0	9
	..	.. 31	.. 610	..	.	..	..	.. 644	.. 641	..	.. 7[illegible]2			
..	..	66	570	1	27	1	..	665	665	726	..	89,123	15	3
	..	.. 52	.. 661	. 4	.. 21	. 4	..	.. 742	.. 742	..	. 815			
..	191	2,781	12,907	33	226	3	16	15,966	16,157	19,190	..	19,14,339	0	4
..	.. 274	.. 1,576	.. 14,679	.. 39	.. 419	.. 10	16	.. 16,739	.. 17,013	..	.. 20,214			

Errors Excepted.

(Signed) W. OLIVER,
Register.

Decrees passed by the SUDDER ADAWLUT *from January to June* 1818.

Decreed or dismissed by the Sudder Adawlut...	5
Adjusted by Razeenamahs	2
Total	7

(Signed) R. CLARKE,
Acting Register.

Sudder Adawlut, Register's Office,
30th September 1818.

Appeals decided by the SUDDER ADAWLUT *from July to December* 1818.

Decreed or dismissed	15
Adjusted by Razeenamahs of the parties...	2
Total	17

(Signed) W. OLIVER,
Magistrate.

Sudder Adawlut, Register's Office,
31st March 1819.

General

General Abstract of Criminal Trials on which Sentences were passed by the Foujdarry Adawlut, from January to December 1818.

Divisions.	Zillahs.	Number of Trials for			Number of Prisoners on whom Sentences have been passed.							Total.
							Totals.					
		1817.	1818.	Total.	1817.	1818.	Death.	Transportation.	Imprisonment.	Released on Security.	Released.	
Centre Division ...	Bellary	...	4	4	...	6	2	1	...	...	3	6
	Chittoor	...	4	4	...	8	3	...	...	...	5	8
	Cuddapah	...	8	8	...	9	...	3	4	...	2	9
Northern Division	Ganjam	1	...	1	2	...	...	...	...	...	2	2
	Guntoor.........	...	1	1	...	1	...	...	...	...	1	1
	Masulipatam ...	1	4	5	2	22	...	1	12	...	11	24
	Nellore	...	1	1	...	2	...	...	...	1	1	2
	Rajahmundry...	...	4	4	...	5	1	...	...	...	4	5
	Vizagapatam ...	...	3	3	...	4	2	1	...	1	...	4
Southern Division	Combaconum...	...	3	3	...	3	2	...	...	...	1	3
	Trichinopoly ...	...	3	3	...	3	1	...	...	1	1	3
Western Division	Canara	1	6	7	3	13	2	1	1	3	9	16
	North Malabar.	2	7	9	4	13	...	...	2	...	15	17
	South Malabar.	2	5	7	8	9	1	...	1	3	12	17
	Total...	7	53	60	19	98	14	7	20	9	67	117

Errors Excepted.

(Signed) ROB[T]. ANDERSON,
Deputy Register.

Foujdarry Adawlut, Register's Office,
15th February 1819.

An Account shewing the Amount of Fees collected and carried to the Account of Government in the Institution and Trial of Suits and Appeals from the 1*st January to the* 31*st December* 1818.

	Fees collected in 1818.			Totals.		
	Rupees.	A.	P.	Rupees.	A.	P.
Centre division	0	0	0			
Northern division	0	0	0			
Southern division	769	8	6			
Western division	77	8	0			
				847	0	6
Bellary	174	3	$5\frac{13}{100}$			
Canara	0	0	0			
Chingleput	127	11	3			
Chittoor	172	2	4			
Combaconum	827	2	0			
Cuddapah	1,478	6	3			
Darapooram	821	10	11			
Ganjam	0	0	0			
Madura	5,812	6	9			
Malabar, North	0	0	0			
Malabar, South	645	1	7			
Masulipatam	44	4	9			
Nellore	946	1	0			
Rajahmundry	751	15	3			
Salem	60	9	8			
Seringapatam	0	0	0			
Tinnevelly	733	8	1			
Trichinopoly	1,210	3	$0\frac{11}{100}$			
Verdachellum	888	7	7			
Vizagapatam	2,296	7	5			
				16,990	5	3
Total, Rupees				17,837	5	9

Errors Excepted.

(Signed) W. OILVER,
Register.

Sudder Adawlut, Register's Office,
31st March 1819.

General Abstract Statement of Appeals and Causes determined or adjusted by the Provincial Courts of Appeal, from January to June 1819, *formed from the Monthly Abstract Registers furnished by them, conformably to Section* 13, *Regulation XIII, A. D.* 1802.

Courts.	Appeals		Causes, tried in the first instance.		Total.
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	
Centre Division	9	1	3	...	13
Northern Division	22	3	12	2	39
Southern Division	13	...	1	...	14
Western Division.............	24	...	6	...	30
Total...	68	4	22	2	96

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
7th October 1819.

General Report on the Reports furnished by the Provincial Courts, conformably to Section 14, *Regulation XIII, A. D.* 1802, *of Causes and Appeals remaining undecided in their Courts, on the* 1st *July* 1819.

Courts.	Appeals.	Causes under trial in the first instance.	Total.	Total preceding half-yearly Report.
Centre Division	11	3	14	...
Preceding half-yearly Report	... 10	... 4	...	... 14
Northern Division	195	40	235	...
Preceding half-yearly Report	... 201	... 49	...	... 250
Southern Division	113	19	132	...
Preceding half-yearly Report	... 103	... 19	...	... 122
Western Division	117	15	132	...
Preceding half-yearly Report	... 128	... 20	...	... 148
Total	436	77	513	...
Total preceding half-yearly Report......	... 442	... 92	...	... 534

Errors Excepted.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
7th October 1819.

General Abstract Statement of Causes decided in the Zillah Courts, from January to pursuant to Section 10, *Regulation XIII, A. D.* 1802, *shewing also the*

Zillahs.	By the Judge, in Appeal from the Decision of — The Register.		The Native Commissioners.		The Sudder Aumeens.		The District Moonsiffs.		By the Register, in Appeal from the Decision of the District Moonsiffs.		Tried, in the first instance, by — The Judge.		The Register.		Total before the Judge and Register.	By the Sudder Aumeen, in Appeal from the Decision of the Native Commissioners, &c.		
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.		Decreed or Dismissed.	Adjusted by Razeenamahs.	
Bellary	..	..	..	..	20	..	13	1	..	2	23	..	1	..	60	3	..	..
Canara	7	1	..	..	..	..	43	..	..	1	61	..	44	22	179	1	..	..
Chingleput	6	..	..	..	15	..	..	..	4	..	9	3	86	17	140	..	..	..
Chittoor	7	..	..	..	24	1	3	2	41	6	25	5	16	4	134	28	8	..
Combaconum	4	..	..	..	20	..	17	..	..	..	13	3	18	..	75	20	2	..
Cuddapah	8	1	3	..	33	5	6	1	..	2	11	7	73	14	164	7	..	..
Darapooram	1	..	1	..	10	1	19	1	..	..	7	..	..	..	40	..	..	..
Ganjam	9	1	..	..	8	..	6	2	..	..	16	4	10	10	66	..	..	..
Madura	4	..	..	..	2	..	10	1	..	..	13	9	13	19	71	..	..	..
Malabar, North	4	..	..	..	6	..	3	..	..	..	46	7	..	..	66	..	..	..
Malabar, South	.	..	..	..	2	..	..	..	..	..	73	9	20	2	106	..	..	..
Masulipatam	8	..	..	..	14	..	8	2	7	..	12	2	24	5	82	..	..	..
Nellore	..	..	..	..	..	..	..	..	..	..	25	5	15	4	49	..	..	..
Rajahmundry	9	..	..	..	16	..	..	..	..	..	48	8	45	14	140	29	3	..
Salem	15	3	31	2	..	..	..	..	17	3	15	7	17	13	123	..	..	..
Seringapatam	..	..	..	..	..	..	..	..	..	..	..	..	42	..	42	..	..	..
Tinnevelly	..	..	..	..	..	1	11	..	..	..	17	10	8	3	50	..	..	..
Trichinopoly	1	..	..	..	..	..	15	1	1	..	16	3	31	3	71	..	..	..
Verdachellum	3	..	..	..	..	..	13	1	..	..	4	..	11	12	44	..	..	..
Vizagapatam	2	..	..	..	15	1	15	2	..	..	26	8	17	3	89	..	..	..
Total	88	6	35	2	185	9	182	14	70	14	460	90	491	145	1,791	88	13	..

Sudder Adawlut, Register's Office,
7th October, 1819.

June 1819, *formed from the Monthly Abstract Registers furnished by the Judges, Amount Value of Property held under Decrees passed in those Courts.*

	Tried, in the first instance, by the Native Commissioners.													Total Native Commissioners.	Grand Total.	Amount of Property Decreed.		
	Former Native Commissioners.		Sudder Aumeens.		District Moonsiffs.		District Punchayets.		Village Moonsiffs.		Village Punchayets.		Total.					
	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.	Decreed or Dismissed.	Adjusted by Razeenamahs.				Rupees.	A.	P.
..	..	..	366	6	3,564	10	..	..	7	..	..	..	3,953	3,956	4,016	19,116	7	4
..	..	..	153	28	695	148	4	..	465	60	19	..	1,572	1,573	1,752	22,109	11	0
..	..	..	60	14	387	108	2	..	43	3	2	..	619	619	759	62,324	6	11
..	..	..	236	113	632	624	..	..	144	115	..	..	1,864	1,900	2,034	83,342	11	2
..	..	..	19	2	671	252	..	..	120	47	1	..	1,112	1,134	1,209	45,158	12	0
..	..	..	258	113	1,827	1,451	1	..	2	..	..	..	3,652	3,659	3,823	75,089	10	6
..	..	..	132	26	208	234	..	..	68	9	..	..	677	677	717	13,858	0	4
..	..	..	56	38	167	121	..	..	..	..	..	..	382	382	448	9,881	3	3
..	..	..	2	11	230	498	..	..	2	..	..	..	743	743	814	50,918	1	7
..	..	..	89	19	505	159	..	..	..	..	..	..	772	772	838	49,726	6	2
..	..	..	14	4	355	313	..	..	..	..	..	..	1,186	1,186	1,292	46,752	15	3
..	6	..	137	54	703	1,737	1	1	123	78	..	1	2,841	2,841	2,923	87,404	3	1
..	..	..	18	13	190	581	..	..	9	3	..	..	814	814	863	12,831	8	7
..	..	..	48	24	510	487	..	..	..	..	..	..	1,069	1,101	1,241	46,410	11	3
..	..	..	55	15	856	497	2	1	418	47	21	..	1,912	1,912	2,035	51,791	2	5
..	..	..	19	2	..	..	..	..	..	..	..	..	21	21	63	3,125	8	0
..	..	..	6	5	254	307	..	..	39	15	..	..	626	626	676	5,288	13	0
..	..	..	86	13	125	162	..	..	17	1	..	..	404	404	475	19,411	7	7
..	..	..	13	10	120	175	..	..	154	92	..	..	564	564	608	8,815	10	1
..	..	..	44	17	437	408	1	..	13	16	..	1	937	937	1,026	57,886	8	9
..	6	..	1,811	527	12,936	8,272	11	2	1,624	486	43	2	25,720	25,821	27,612	7,71,243	14	3

Errors Excepted.

(Signed) W. OLIVER,
Register.

General Report of the Reports furnished by the Zillah Judges, conformably to Section 11, shewing also the estimated Amount of

Zillahs.	Before the Judge, in Appeal from Decision of				Before the Register, in Appeal from Decision of the District Moonsiffs.	Under Trial in the first instance before		Total before the Judge and Register.	Before the Sudder Aumeens, in Appeal from Decision of the District Moonsiffs.	
	The Register.	The Sudder Aumeens.	The District Moonsiffs.	The former Commissioners.		The Judge.	The Register.			
Bellary	2	15	..	..	8	17	18	60	..	..
Preceding half yearly Report	.. 2	.. 2	.. 11	..	..	.. 21	..	.. 55	.. 3	
Canara	45	34	188	14	10	229	230	750	..	..
Preceding half-yearly Report	..206	..	..	..	.. 10	.. 92	..136	.. 444	..	
Chingleput	24	12	36	..	..	17	14	103	..	..
Preceding half-yearly Report	.. 18	.. 21	.. 5	..	.. 5	.. 22	.. 17	.. 88	..	
Chittoor	27	77	19	..	33	54	15	225	34	..
Preceding half-yearly Report	.. 23	.. 89	..111	.. 1	..	.. 46	.. 16	.. 286	.. 5	
Combaconum	5	3	12	..	..	33	13	66	4	..
Preceding half-yearly Report	.. 8	.. 18	.. 16	..	..	.. 29	.. 6	.. 77	.. 16	
Cuddapah	19	69	25	5	..	57	53	228	..	..
Preceding half-yearly Report	.. 25	.. 84	.. 23	.. 9	..	.. 64	.. 80	.. 285	..	
Darapooram	3	35	50	..	..	15	27	130	..	..
Preceding half-yearly Report	.. 4	.. 24	.. 63	.. 1	..	.. 14	.. 25	.. 131	..	
Ganjam	3	7	2	1	..	13	17	43	..	..
Preceding half-yearly Report	.. 5	.. 3	.. 2	.. 1	..	.. 21	.. 28	.. 60	..111	
Madura	2	..	4	..	..	25	20	5'	..	..
Preceding half-yearly Report	.. 2	.. 1	.. 5	..	..	.. 26	.. 13	.. 47	..	
Malabar, North	2	15	20	..	..	55	22	114	..	..
Preceding half-yearly Report	.. 5	6	.. 8	..	.. 4	.. 28	.. 23	.. 74	..	
Malabar, South	7	12	1	..	..	63	10	93	166	..
Preceding half-yearly Report	.. 7	.. 14	..	..	..	.. 23	.. 16	.. 60	..	
Masulipatam	18	31	29	..	10	4	33	125	..	..
Preceding half-yearly Report	.. 22	.. 33	.. 31	..	..	.. 9	.. 39	.. 134	..	
Nellore	3	11	10	..	14	9	17	64	..	..
Preceding half-yearly Report	.. 6	.. 21	.. 3	..	.. 11	.. 14	.. 6	.. 61	..	
Rajahmundry	19	89	3	..	..	296	188	595	..	..
Preceding half-yearly Report	.. 24	..116	.. 5	..	..	..308	..239	.. 692	.. 35	
Salem	15	..	..	105	23	46	26	215	..	..
Preceding half-yearly Report	.. 31	..133	..	..	.. 10	.. 46	.. 23	.. 243	.. 21	
Seringapatam	..	..	..	..	..	64	..	64	..	
Preceding half-yearly Report	.. 4	..	..	..	..	.. 6	.. 25	.. 35	..	
Tinnevelly	4	..	8	..	..	30	5	47	..	..
Preceding half-yearly Report	..	.. 1	.. 3	..	..	.. 26	.. 10	.. 40	..	
Trichinopoly	9	18	9	..	..	12	25	73	..	..
Preceding half-yearly Report	.. 7	.. 20	.. 10	..	..	.. 17	.. 16	.. 70	..	
Verdachellum	7	..	36	..	..	36	21	100	..	..
Preceding half-yearly Report	.. 3	.. 35	..	..	..	.. 37	.. 15	.. 90	..	
Vizagapatam	..	3	14	..	..	21	18	56	..	..
Preceding half-yearly Report	..	..	.. 12	..	..	.. 35	.. 14	.. 61	..	
Total	214	431	466	125	98	1,096	772	3,202	204	..
Total preceding half-yearly Report	..402	..640	..308	.. 12	.. 40	..884	..747	.. 3,033	..191	..

Sudder Adawlut, Register's Office,
7th October 1819.

Regulation XIII, 1802, of Causes depending in their Courts, on the 1st July 1819; Property in Litigation on those Courts.

	Under Trial in the first instance before the												
	Sudder Aumeens.	District Moonsiffs.	District Punchayets.	Village Moonsiffs.	Village Punchayets.	Former Commissioners.	Total.	Total Native Commissioners.	Grand Total.	Total preceding half-yearly Report.	Amount of Property under Litigation. Rupees.	A.	P.
.	153	..	..	..	..	..	153	153	213	..	21,367	0	4
	.. 149	..	..	..	..	..	.. 149	.. 152	..	.. 207			
.	325	82	..	..	..	..	407	407	1,157	..	1,36,747	3	2
	.. 130	.. 2,224	.. 14	..	..	..	.. 2,368	.. 2,368	..	.. 2,812			
.	37	87	4	1	1	..	130	130	233	..	43,583	5	0
	.. 20	.. 55	.. 6	.. 2	.. 1	..	.. 84	.. 84	..	.. 172			
.	196	1,456	..	..	..	..	1,652	1,686	1,911	..	1,40,905	5	6
	.. 129	.. 1,086	..	..	..	..	.. 1,215	.. 1,220	..	.. 1,506			
.	18	448	3	113	..	..	582	586	652	..	72,760	5	4
	.. 20	.. 348	.. 3	.. 72	..	..	.. 443	.. 459	..	.. 536			
.	141	1,453	..	..	..	..	1,594	1,594	1,822	..	1,17,866	12	3
	.. 128	.. 1,698	..	..	..	..	.. 1,826	.. 1,826	..	.. 2,111			
.	112	589	..	..	..	..	701	701	831	..	38,718	3	11
	.. 125	.. 510	.. 1	..	..	..	.. 636	.. 636	..	.. 767			
.	92	244	..	..	..	..	336	336	379	..	45,724	12	4
	.. 58	.. 257	..	..	..	..	.. 315	.. 315	..	.. 375			
.	19	519	..	..	..	..	538	538	589	..	64,771	8	9
	.. 7	.. 473	..	..	..	..	.. 480	.. 480	..	.. 527			
.	72	1,775	..	..	..	..	1,847	1,847	1,961	..	85,630	7	9
	.. 40	.. 1,517	..	..	..	..	.. 1,557	.. 1,557	..	.. 1,631			
.	138	1,650	..	..	..	..	1,788	1,954	2,047	..	2,41,703	5	2
	.. 145	.. 1,417	..	..	..	..	.. 1,562	.. 1,673	..	.. 1,733			
.	84	1,887	9	..	..	10	1,990	1,990	2,115	..	70,209	12	7
	.. 92	.. 1,457	. 5	..	..	.. 16	.. 1,570	.. 1,570	..	.. 1,704			
..	38	186	1	2	..	..	227	227	291	..	27,410	15	8
	.. 15	.. 125	.. 1	..	.. 1	..	.. 142	.. 142	..	.. 203			
..	322	2	..	..	..	..	324	324	919	.	4,51,605	15	3
	.. 384	.:	..	..	..	..	.. 384	.. 419	..	.. 1,111			
..	15	1,467	2	..	..	..	1,484	1,484	1,699	..	93,306	11	9
	.. 1,183	.. 3	..	..	..	..	.. 1,186	.. 1,207	..	.. 1,450			
..	..	..	..	..	..	..	..	..	64	..	10,846	4	0
	.. 11	..	..	..	..	..	.. 11	.. 11	..	.. 46			
..	8	351	2	134	..	..	495	495	542	..	17,267	6	2
	.. 6	.. 369	.. 2	.. 125	..	..	.. 502	.. 502	..	.. 542			
..	44	99	..	..	..	..	143	143	216	..	23,822	0	4
	.. 27	.. 118	..	..	..	..	.. 145	.. 145	..	.. 215			
..	62	669	..	..	..	..	731	731	831	..	99,576	3	9
	.. 46	.. 680	..	..	..	..	.. 726	.. 726	..	.. 816			
..	38	377	..	30	..	..	445	445	501	..	58,141	0	0
	.. 66	.. 570	.. 1	.. 27	.. 1	..	.. 665	.. 665	..	.. 726			
..	1,914	13,341	21	280	1	10	15,567	15,771	18,973	..	18,61,964	11	0
..	.. 2,781	.. 12,907	.. 33	.. 226	.. 3	.. 16	.. 15,966	.. 16,157	..	.. 19,190			

Errors Excepted.

(Signed) W. OLIVER,
Register.

Appeals decided by SUDDER ADAWLUT *from* 1*st January to* 30*th June* 1819.

Decreed or dismissed....................	18
Adjusted by Razeenamah	1
Total	19

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
23d September 1819.

Appeals depending in SUDDER ADAWLUT *on the* 1*st July* 1819.

26 Appeals depending.

(Signed) W. OLIVER,
Register.

Sudder Adawlut, Register's Office,
23d September 1819.

EXTRACT JUDICIAL LETTER *from* FORT ST. GEORGE, *Dated the 1st March* 1815.

Judicial Letter from Madras, 1 March 1815.

Par. 133. We regret to be obliged to bring to the notice of your Honourable Court, the correspondence with the Judge and Magistrate in Canara, which is recorded on our proceedings noted in the margin,* relative to the detection of an extensive system of flagrant corruption and iniquity on the part of his native servants.

134. Although it was the opinion of the Judge and Magistrate, that the aggravated nature of the offences of his servants, and the extent of the injury which had resulted to the community from their crimes, called for the adoption of other measures towards them than those prescribed by the Regulation, which provides for the trial of partial corruption and extortion, we enjoined him strictly to conform to the Regulations in conducting the prosecutions which have been instituted against them.

135. This, indeed, was the only course of proceeding which we considered it competent either for us to direct, or for him to pursue. That the parties had rights (however criminal their conduct had been) was unquestionable, and that the law (whether its particular provision on the point in question were expedient or otherwise), should enable them to maintain their rights, we deemed a matter of greater importance than even the complete detection, and the adequate punishment of the offences with which they were charged. We, however, directed the Judge and Magistrate to prosecute with activity his investigation into the abuses which had taken place, and to report all his proceedings connected with it for our information.

136. You will observe, that Mr. Wilson, the Judge and Magistrate, transmitted to us petitions from two of the accused servants, who, convinced of the impracticability of exculpating themselves, appear to have sought for revenge by an attack on the character of that gentleman. On his first bringing to our notice the discovery of the malpractices of his servants, Mr. Wilson had expressed himself in a manner which appeared to proceed from expressions highly creditable to his character; and the strong measures adopted by him for the purpose of securing the persons and the property of the offenders, and of obtaining the most ample evidence of their guilt, would have removed all idea of collusion between him and them, even if any grounds for such a suspicion had existed. No such suspicion was ever entertained, and we had communicated to Mr. Wilson our assurances, that we reposed entire confidence in the integrity of his character. As, however, it appeared from the letter from Mr. Wilson, which accompanied one of the above-mentioned petitions, that he had employed one of his public servants in the transaction of private business, we deemed it proper to intimate to him, that we considered every instance in which an inferior public servant was so employed by any officer of Government to be matter of regret; but we thought it just to that gentleman to add, that we regarded the allegations contained, in the papers which he had transmitted, precisely in the same light in which they were represented by himself, and that we reposed unshaken confidence in his integrity and honour.

137. Your Honourable Court will observe, that the conduct of Mr. Thomas Gahagan, in the part he performed in bringing to light those abuses, was such as to do honour to his discernment and public spirit, and to attract our particular notice; and that the zeal of Mr. William Campbell, the Assistant Collector in Malabar, in voluntarily affording his aid to Mr. Wilson, also obtained our approbation.

138. We caused Mr. Wilson to be informed, that we should be disposed to forego all claim to the fines adjudged to Government, till the whole of the prosecutors have obtained a restitution of their property from the delinquents.†

139. We have not thought proper to comply with the recommendation of the Magistrate, that all the native servants and the Commissioners under him should

* Consultations, 11th and 21st May, 15th June, 13th July, 10th, 13th, and 27th August 1813; 4th January, and 18th February 1814.

† 27th August 1813.

Judicial Letter from Madras, 1 March 1815.

should be dismissed, for connivance at the abuses which have been practised in the zillah. We conceived that it would be preferable, that their dismissal should take place in the regular manner prescribed by Regulation V, A. D. 1811; or if that course of proceeding should be attended with difficulty, or liable to objection, that the authority of Government should not be interposed, till we had seen reason to be satisfied of the misconduct of each individual who was to be dismissed.

140. Our further proceedings on the subject will be submitted to your Honourable Court, when we shall have ascertained the issue of one or more of the appeals which the parties have made from the decisions of the Judge, in the suits which have been instituted against them.

EXTRACT JUDICIAL LETTER *from* FORT ST. GEORGE, *Dated 5th January* 1816.

Judicial Letter from Madras, 5 Jan. 1816.

Par. 34. WITH reference to the information communicated to your Honourable Court by our letter of the 1st March last,* in regard to the misconduct of the public servants employed under Mr. Wilson, the late Judge and Magistrate of the zillah of Canara, we have the honour to inform you, that we have been induced, by the representations of his successor, Mr. Baber,† to authorize him to suspend from employment as many of those servants as he had reason to believe unworthy of confidence. In granting this authority, however, we did not omit to remind Mr. Baber, that the proof of their delinquency must ultimately be established in the regular manner prescribed by the Regulations.

35. Copies of several decrees passed by the provincial court of appeal, in affirmation of decrees of the zillah court of Canara, against two of those delinquents, the Sheristadar, and the Foujdarry Record keeper, have been since received, and are recorded on our proceedings noted in the margin.‡

36. Some further petitions of the nature of those referred to in the 136th paragraph of our last dispatch, have been received from certain of the delinquents. One of them, containing very heavy accusations against the late Magistrate, Mr. Wilson, has been referred by us to Mr. Baber; but the report upon it, received from that gentleman, has only confirmed our opinion of the general falsehood of the allegations of the petitioner, and the unworthiness of his case, to call for the interference of Government.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS, *The 11th May* 1813.

Madras Judicial Consultations, 11 May 1813.

READ the following letters from the Magistrate in the zillah of Canara.

To the Chief Secretary to Government, Fort St. George.

SIR:

For the information of the Honourable the Governor in Council, I have the honour to inform you, that I have been under the necessity of placing the persons of the two head civil and magisterial native servants, named Poottapah and Maudapah, under restraint, in consequence of several complaints having been preferred, charging them with gross corruption in the execution of their public duties.

The complaints already received are not preferred by the persons who are said to have given the bribes, but by others, who declare themselves acquainted with all the circumstances of the case, and who are now engaged in producing the necessary proof against the parties.

I have

* One hundred and thirty-third and following paragraphs. † Consultation, 7th April 1815.
‡ Consultations, 17th and 27th July, 25th August, 11th and 29th September, and 17th November 1815.

Madras Judicial Consultations, 11 May 1813.

I have been induced to put these persons under restraint, to prevent their escape, and to preclude the possibility of their exerting any undue influence. I trust the Honourable the Governor in Council will admit the propriety of the measure, and authorize the continuance of it until the causes can be regularly made over to the circuit Judge, and their merits determined before that tribunal.

I have the honour, &c. &c.

(Signed) A. WILSON, Magistrate.

Zillah Court, Canara,
1st May 1813.

P. S. Copies of this letter have been forwarded to the court of Sudder and Foujdarry Adawlut and provincial Court of Appeal and Circuit.

To the Chief Secretary to Government, Fort St. George.

Sir:

I have the honour to inform you, that since the date of my last letter, I have succeeded in securing considerable property, in money and effects, concealed under ground, belonging to the two servants, Poottapah and Maudapah. A great number of their private papers have also been found under ground, and I am sorry to say, that these papers and property corroborate the charges against them so much, that there can be no longer any doubt of their infamy. I have, in consequence, thought it my duty to put them in irons, and have this day sent them to the common jail. I am endeavouring to recover more property and more papers; and as I have already received information of some of their accomplices, I beg permission from the Honourable the Governor in Council to conduct these inquiries to a close, when I shall have the honour of reporting all particulars.

I have the honour, &c. &c.

(Signed) A. WILSON, Magistrate.

Zillah Court, Canara,
4th May 1813.

Ordered, that the foregoing letters do lie on the table.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 21st May 1813.

Read the following letter from the Magistrate in the Zillah of Canara.

To the Chief Secretary to Government, Fort St. George.

Madras Judicial Consultations, 21 May 1813.

Sir:

I have the honour to report, for the information of the Honourable the Governor in Council, some further particulars now pending in this court, against the two native head servants, Poottapah and Maudapah. I am sorry to state, that late and daily discoveries confirm the propriety of the measures which have already been adopted against them; and, as by present information, it appears likely that their malpractices, and the consequences of them, have been both more frequent and pernicious than can be at present imagined or described, it will remain for the Honourable the Governor in Council to direct whatever future measures may be deemed expedient for the final conviction of these two offenders and their many accomplices. The number of complaints at present preferred is forty, and the charges which they set forth consist of bribery, corruption, oppression, preventing and perverting the due course of justice, intimidating and threatening the people. The amount of

Madras Judicial Consultations, 21 May 1813.

of bribes, fees, and other profits, stated in these several complaints to have been received by Poottapah and Maudapah, is Rupees 32,243½, or Star Pagodas 9,212 19 23, and these are stated to have been given either for the purchase of influence, general or particular assurances of good will, or for absolute interference in the process of the court. I feel that I cannot proceed upon the information I am about to communicate, without protesting how perfectly unconscious I have always been of these circumstances, and I have to lament that such an unfortunate silence has hitherto prevailed respecting them. I am acquainted with four oriental languages: Canarese, Concan, Mahratta, and Hindoostanee, which are very generally spoken throughout Canara. The people who now confess themselves on oath to have paid the bribes, and to have been acquainted with all, or many other of the infamies now brought to light, have stated, that they have frequently seen and conversed with me, and yet until the arrival of Mr. Gahagan I never heard one word about bribery, corruption, oppression, or injustice. The existence, however, of these, is now clearly proved to have continued for some years: and they have been so general throughout the province, that I am shocked to think that they have been practised, particularly by the servants of a court of justice, and I am grieved to find how serious they have been; I must, therefore, implore of the Honourable the Governor in Council to receive this letter as coming from a public servant, deeply impressed with sorrow at the evils which he is about to recite, and unhappy at the mischiefs which they have occasioned. It really is not credible, that these transactions could have been carried on for such a length of time unknown to me; but when the following circumstances shall have been considered, it will be seen, not only that such is the truth, but that until now the discovery could not have happened. These servants were formerly employed in the Revenue department, and one for a time in the circuit court, with so much credit to themselves, that I thought myself truly fortunate in obtaining them at the first institution of the court at Onore; and, with respect to the public duties assigned to them, I can declare that the trust and responsibility attached to them has never been more than what the universal practice of every court and the Regulations of Government prescribe, nor does it any where appear that the duties assigned to these persons have either assisted or encouraged their evil practices. They have formed the plan of enriching themselves by imposing upon the credulity of the people; and, with the aid of other court and zillah servants, they have been enabled to prosecute their wicked designs without my knowledge or suspicion. The Honourable the Governor in Council will, I trust, readily believe, that every cause decided or pending in the zillah court has at all times received from me the most patient and conscientious investigation; yet it may be easily conceived that evil-disposed persons, designing to enrich themselves, can persuade the people to believe that they have a vast influence in public matters, and that they have the power at all times to direct the process of the court, to the profit or disadvantage of whom they please. That this has been the case, the following brief abstract of the complaints already received will fully establish. They have taken bribes from both parties in the same suit, and having recommended an adjustment of the suit, the parties have filed a Razeenamah, and the suit has been dismissed. They have instructed complainants in trifling cases to cite wealthy persons as witnesses to facts of which they knew nothing, merely to extort from them a fee to purchase their release from attendance; the prosecutor has then been taught to withdraw himself, and the suit has been dismissed in consequence of his non-attendance for several months. On other occasions, they have received bribes from plaintiffs and defendants, in causes wherein my decisions have been appealed, and have received the confirmation of the upper court. Does not this prove what an infatuation has prevailed, and does it not appear that either plaintiff or defendant, in one or all of such cases, would suspect their boasted influence? But it has never been mentioned. It appears to me inconceivable, how these men could have found time or opportunity to design and practice these various acts of cunning and duplicity. Their official duties have always been numerous and constant, and it remains for me to explain why they have been so. Since the original establishment of the court, there has not been a Register who continued long enough to undertake the superintendence or management of the more important details of office, and I have been, in consequence, obliged to assign them

Madras Judicial Consultations, 21 May 1813.

them to those two servants. Mr. M'Kerrell was twice absent at Madras, and when present, that gentleman was so industriously attentive to the acquisition of the native languages, that I permitted his attendance in court to be less regular, in order to give him opportunity to prosecute his studies with more probability of success: and he accordingly quitted the zillah at two different periods, for the special purpose of being examined in the languages, the Canarese and Gentoo, and for the acquisition of those he obtained the prescribed rewards. Mr. Robertson was appointed to succeed Mr. M'Kerrell, but this gentleman did not join; and from the departure of the former until the arrival of Mr. Fraser, a period of twenty-one months, the court was without a Register. In the course of Mr. M'Kerrell's residence in Canara he was four other months absent on leave, in the prosecution of his studies, so that it may be truly said I have been almost entirely without a Register, from the first institution of this court until the present time. Hence I have found it indispensable to the speedy furtherance of public business to make over most of the duties of Register to these persons. But it is not from matters connected with their public duty that they have been in any way assisted or secured in the prosecution of their infamies, and the only possible cause to which I can impute success to have attended them in their wicked designs, has been from the consequence that is always supposed to attach to respectable and responsible situations; and these two men being the two principal native servants of the court, the people have unhappily believed that they really possessed the influence which they have so audaciously proclaimed.

The lamentable effects of this unhappy credulity are more numerous and more serious than the Honourable the Governor in Council may be willing or able to conceive; I therefore think it my duty to apprize the Honourable the Governor in Council generally, that the most atrocious malpractices have undoubtedly, and for a long time past, existed, and that many of the Commissioners and other public servants throughout the province and in the court have aided and abetted their infamies. Five of these Commissioners have been already summoned to attend the court, and I have placed the Cutwall, a Vakeel of the court, and others implicated, under personal restraint: neither shall any other measure that can in the least conduce to the most full and successful termination of these inquiries be forgotten or untried. Much remains to be done; for it is by present inquiry alone that the extent of the late evils can be discovered, and the offenders detected and secured. It will be seen, from the following recital of a curious fact, what an uncommon degree of cunning has been practised by the two principals in offence, and the Honourable the Governor in Council will then see how improbable discovery became. For some time after the appointment of these men to the court, their duties were carried on with perfect tranquillity and order. On a sudden a violent animosity arose between them, the causes of which were variously stated by each: it became so troublesome, that the public business was impeded by it, and I was obliged several times to threaten them with dismissal, if it did not cease. Although I occasionally experienced inconvenience from these animosities, yet as I had learnt, both in the Revenue and Judicial departments, how useful they frequently were, in maintaining a watchful jealousy amongst servants intrusted with important duties, I endeavoured merely to moderate their feuds, not to suppress them; but I little imagined that all this appearance of enmity was feigned, and adopted only to conceal the villanies which are now exposed. During all this time there never has appeared any thing in their mode of living to create the smallest suspicion of their guilty practices. Their demeanour has, in every respect, been plain and unostentatious, corresponding with what their pay and a little family estate might be supposed capable of affording to either. When they imagined that their feigned animosities had subsisted long enough to lull my suspicions, they thought proper to put an end to the part which they had so long acted, by an intermarriage of their children, in the year 1811. Upon this occasion they certainly displayed considerable expense; but as it is well known to what an extent the natives will go upon these occasions, it did not create in me any particular surprise. There are many other deceptions which I could enumerate, but as they have all tended to one infamous design, I will not trouble the Honourable the Governor in Council with more than merely to state, that in order more effectually to deceive my judgment of their characters,

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racters, they have been in the constant practice of distributing rice to the poor every week, and their exactness in paying coolies, and every thing which they have required on the road, when travelling with me, are very remarkable. I must now return to matters before the court, and am sorry to say, that an instance of their power and influence with the natives is most seriously illustrated in the following heavy charge. A murder is said to have been perpetrated about two years ago by one of the Commissioners, a brother of Poottapah, at Sedashegur, where the whole family were born, and have for many years resided. When the people attended to give information of this murder at the zillah court, they were taken to Maudapah's house by a Vakeel of the court, where it was hushed up, and nothing has since transpired respecting it, until the present time. The circumstance of Commissioners being obliged by the Regulations to be appointed where they have a family estate, gives them all a great deal too much local influence, more evil effects of which I shall have hereafter to detail. In the meantime, and now that I have explained generally the nature and extent of the monstrous infamies at present under inquiry, I trust and hope the Honourable the Governor in Council will give me full credit for the earnestness and solicitude with which I am prosecuting these inquiries; and Government may be assured, that every precaution is, and has been adopted, for the furtherance of justice, the apprehension and detection of the guilty, and for the recovery of all the money, effects, and other property, which may belong to the persons implicated or accused. I have already circulated proclamations, inviting information of every kind respecting them, and the beneficial effects of these are already apparent. I shall continue to adopt every measure that can possibly tend to the discovery of all that is to be known. I have addressed the British Envoy at Goa to secure the property belonging to Poottapah, whose friends have long carried on, on his behalf, extensive mercantile concerns in these territories. These two servants have also estates at Sedashegur, and they have purchased a number of gardens and much land in many other places. As it was a material object to secure all the money and other property on their estates, I resolved to depute some responsible person to seize the said property, and I have requested of the Collector, Mr. Read, to attach their estates. As Mr. Gahagan could not be spared from court, Mr. Campbell very zealously undertook to go to Sedashegur, and he accordingly proceeded with full powers (in less than twenty-four hours' notice), by express, to that place. I have applied officially to the officers commanding at Onore and Sedashegur, to assist that gentleman with all the troops that can be spared, for the purpose of securing whatever effects may be found, as it is most likely that the police servants there are under the influence of the Commissioner, who, as before stated, is a brother to Poottapah. I have mentioned Mr. Campbell, to bring his zealous and willing assistance, in a department to which he is not appointed, before the particular notice of the Honourable the Governor in Council, and I have no doubt that this gentleman will execute the trust reposed in him with every circumspection. I will leave nothing undone which can in the least conduce to the speedy and effectual termination of the present inquiries, which, by their sudden commencement, have come unexpectedly upon all parties, and from which we have, in consequence, derived much benefit. I must, therefore, bring to the knowledge and consideration of the Honourable the Governor in Council in what manner they were begun, by stating the very conspicuous part which the Register, Mr. Gahagan, has acted, in bringing to trial and exposure these unparalleled villanies. Mr. Gahagan took the oath of Register and Assistant Magistrate only on the 18th day of March last, and having very shortly after heard that there were complaints against the court servants, he conceived, with much propriety, that his court might become of essential benefit, if made to act as a check upon the servants of mine: he therefore proclaimed to the inhabitants his readiness to receive all well-founded complaints against the court servants of every description. In consequence of this communication, he soon procured sufficient information, stamped with such probability of truth, that he was induced to urge to me the immediate suspension from office of the offenders, the restraint of their persons, and the seizure of their effects and papers. Mr. Gahagan appears also to have been well convinced, before adventuring on the information which he had in view, that the importance of the case would fully justify the measures proposed,

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posed, and the testimonies now before me clearly confirm his past opinion. By the amount of the property already recovered, which is estimated by Shroffs and merchants at Star Pagodas 11,568 16 26,* it will be conceived to what a vast degrée malpractices have existed, and it shews, at the same time, to what an oppressive and odious extent they have been carried. Mr. Gahagan appears to have seen, at once, the true nature of all these things, and I am bound in justice to him to declare, that in no one instance has his anticipations and proposals been disappointed or frustrated. If the detection of guilt in servants holding the most important trusts under Government, the seizure and recovery of property to a very large amount, the purifying of the Judicial system of a whole province, and the consequent diffusion of happiness among thousands, can be attributed to the conduct of any single person, the praise of having accomplished all this is entirely due to the active exertions, the resolute perseverance, and highly disinterested conduct of Mr. Gahagan, who in so short a space of time has done more essential and permanent service to the country and his employers, than is usually permitted to fall to the lot of any individual. This opinion of mine is, I am happy to say, seconded by that of the inhabitants, and I hope they will never forget to whom they are so much indebted.

Before concluding, I feel myself called upon to declare that my conduct has invariably been guided by the strictest integrity; but if, from the disclosure of the facts contained in this letter, or other cause, the smallest doubt should be entertained on this subject, I most particularly intreat, that the Honourable the Governor in Council will be pleased to take immediate measures for instituting the strictest investigation into all the circumstances of the present case, as well as into my general character and conduct, from the earliest period of my appointment to the situation I have now the honour to hold; and I would further suggest to the Honourable the Governor in Council, that some immediate measures be adopted, to ascertain exactly the extent of the corruption which is so evidently proved to have existed in the court. I am extremely sorry to say, that I believe it to have been general throughout the court and the zillah establishment, and I have therefore again to urge to the consideration of the Honourable the Governor in Council, that it be forthwith examined and inquired into.

I have the honour, &c. &c.

(Signed) A. WILSON,
Magistrate.

Zillah Court, Canara, 9th May 1813.

The following draft of a reply is read and approved:

To the Judge and Magistrate in the zillah of Canara.

SIR:

Your letters of the 1st, 4th, and 9th instant have been laid before his Excellency the Governor in Council, who views with deep concern the extensive system of flagrant corruption and iniquity on the part of the native servants acting under your authority which those letters disclose.

2. It is mortifying that all the endeavours in which the Governor has incessantly persevered during a course of years, for the purpose of protecting the people against violence and oppression, of securing to them the enjoyment of their rights and property, and of instilling into their minds just notions of the principles by which the British dominion over them is intended to be regulated, should, throughout a large and populous province, have been entirely frustrated by the schemes of two worthless individuals, intent only upon the acquisition of dishonest gains. The object of these men, putting its guilt out of view, was so despicable, as to enhance the regret to be felt for the sacrifice by which it has, for a time, been successfully attained.

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* More has been discovered and is valuing, and very much more is expected.
(Signed) A. WILSON, Magistrate.

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3. This is an evil to which, from the number of natives unavoidably employed in offices of trust, all parts of the country must be exposed, and against which the most inflexible rectitude of character in the public officers placed at the head of the courts of justice, without judicious arrangements and a vigilant superintendence, will prove a very unavailing protection. The Governor in Council has it accordingly in contemplation, to call the attention of the different Judges and Magistrates to this particular point, after the nature and extent of the abuses practised by your native servants have been more precisely ascertained. The lesson of experience which you have just gained will, it is presumed, put you sufficiently on your guard for the future.

4. The impressions under which your letters appear to have been written, are considered by the Governor in Council as being highly creditable to your character; and the strong measures adopted by you, for the purpose of securing the persons and the property of the offenders, and of obtaining the most ample evidence of their guilt, would have removed all idea of collusion between you and them, even if any ground for such a suspicion had existed. No such suspicion has ever been entertained, and the Governor in Council is happy in having the opportunity of conveying to you the assurance that he reposes entire confidence in the integrity of your character.

5. The acquaintance with the subject under consideration which you have already acquired, joined to your zealous desire to conduct the investigation of it to a satisfactory result, seems to the Governor in Council to point you out as the fittest person to whom that investigation can be entrusted.

6. With regard to the dismissal of the offenders from their offices, and the legal proceedings to be instituted against them, you will be entirely guided by the provisions of the Regulations on those points, but will report all that may be done to the Governor in Council.

7. What most urgently demands your attention, is to prevent the authors of the detected abuses from making away with their ill-gotten wealth, or with any property honestly belonging to them, and to obtain possession of full and clear proof of all the abuses in which they have been concerned.

8. The conduct of Mr. Gahagan, on the present occasion, does honour to his discernment and public spirit, and has not failed to attract the particular notice of the Governor in Council.

9. The Governor in Council also approves of the zeal of Mr. Campbell, the Assistant Collector, in voluntarily affording you his aid in securing the property of the offenders.

I am, &c. &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 21st May 1813.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 15th June 1813.

READ the following letter from the Judge and Magistrate at Canara.

To the Secretary to Government in the Judicial Department, Fort St. George.

SIR:

Madras Judicial Consultations, 15 June 1813.

I have the honour to acknowledge the receipt of your letter, under date the 21st ultimo, and to submit to his Excellency the Governor in Council my most grateful thanks for the honourable opinion which he has been pleased to entertain towards me. With respect to the unhappy circumstances now under investigation, I have to communicate that, immediately on the receipt of the above letter, I considered it to be indispensably necessary to the ultimate

ultimate accomplishment of the purposes of these inquiries, to remove from present duty every person who has, in any direct way, had communication with the duties and process of the Court, and that I have accordingly suspended them all from their offices, without prejudice to their salaries, until the proceedings shall be terminated, having procured other assistants, through whom only I can hope to prosecute the investigation with proper safety and satisfaction. I know that I have received all the valuable information which the servants lately acting with me have been able to obtain; and I now remove them, because I have certain evidence that they are, one and all, more or less implicated in the late infamous delinquencies. I have further ordered all the Commissioners to repair to the zillah court, and I have published throughout the province a proclamation, giving every exhortation and confidence to the inhabitants to come forward and expose all past injustice, oppression, or wrong. Before I shew the indispensable necessity of these measures, I must acquaint his Excellency the Governor in Council of the various events that have transpired since the date of my last address, by submitting a short summary of the court's proceedings during this interval. The number of complaints then stated amounted to forty, and the charges which they set forth were chiefly of bribery, corruption, extortion, perverting the due administration of justice, and of one murder, with the concealment of the same. The amount of fees and other profits charged against the principal offenders was Star Pagodas 9,212 19 23, and the valuation of the property at that time in distraint was Star Pagodas 11,568 16 26. The number of complaints at present received amounts to one hundred and fifteen, and they extend to many other public servants, such as Commissioners, Vakeels, Darogahs, &c. The amount of fees and other profits charged against all these offenders, inclusive, is also increased to the amount of 62,800 Rupees; and I lament to add, that amidst these complaints are to be traced every kind of iniquity and persecution, which the most wicked tyranny or insatiate avarice could suggest. Such is the character of infamies that have been practised and assisted by the servants of a court of justice; and it is become impossible for me to continue to employ people to detect offences, in which they themselves have been principals or abettors. Hereafter I shall describe the true history of this most infamous and foul corruption, which has so long overwhelmed this ill-fated province with every species of the most vile and execrable injustice. It is now too manifest how inefficient all existing precautions are to secure the pure administration of justice, whilst the process of it shall be entrusted to minds who are never taught, and therefore cannot understand, the reciprocal obligations between probity and true honour. It shall, therefore, be my solemn care to propose, at the end of these inquiries, for the consideration of Government, every further precaution conceivable, to prevent the recurrence of evils so repugnant to the principles of British legislation, and to secure the true application of those laws which are designed for the happiness, comfort, and liberties of the people whom they govern. At present, I must confine myself to a general review of past occurrences, and I have, therefore, to state that, in the proclamation just published I have not failed to repeat the very satisfactory orders contained in your letter from his Excellency the Governor in Council, because it is certain that many persons, who have important secrets to disclose, have been restrained from so doing by the fear of future persecution from those against whom they have information. But now, when the people see and understand that all the late measures of this Court in their behalf have been happily approved and confirmed, and that Government have been pleased to direct the further and most earnest prosecution of the present inquiries, there can be no doubt that many things will yet be brought to light of the most essential importance to the public interests; I shall, therefore, continue to address his Excellency the Governor in Council on all particular matters which may at any time require a reference to that authority, not only that I may keep Government constantly and immediately acquainted with such occurrences, but that my own proceedings, in a matter of such infinite and paramount concern, may not be unduly protracted or interrupted. From the measures already adopted, I anticipate with confidence the most effectual and important results, which will tend to distribute throughout the province the utmost confidence amongst the people in the favourable intentions of Government, and the earnest endeavours of the

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Court for the firm establishment of their future securities. I feel well assured of the sanction of his Excellency the Governor in Council to any measure which I may adopt for the interests of so many thousands of people, who have long and patiently endured the cruel persecutions of the most hateful oppression, and which, though materially assisted and encouraged by their own infatuated credulity, cannot be the less abhorrent to a British Government. With these opinions I renew my assurances, that I will pursue, with the most ardent sincerity, our present inquiries, to the utter extermination of all past wrong; and I cannot but again express to his Excellency the Governor in Council, what grateful and proud consolation my mind has received, amidst the cares and disquietudes of this unhappy retrospect, from the kind assurance of confidence which he has been pleased to repose in me, the continuance of which I will leave nothing undone to deserve. In my last letter I attempted to do some justice to the conduct of Mr. Gahagan, and it was with extreme delight that I had since to communicate to him the favourable reply of his Excellency the Governor in Council. Mr. Gahagan requests of me to submit his respectful assurance, that his humble services shall at all times be most faithfully devoted to the public interests. All possible advantage has been derived, and must be further expected, from the support of this gentleman. His exertions continue unabated, and I should be more than unfortunate to fail in the present undertaking, when assisted by such truly valuable cooperation and advice, a due acknowledgment of which I know not how to record, or what return to offer him for his steadfast and indefatigable zeal. I have communicated to Mr. Campbell the favourable opinion of his Excellency the Governor in Council respecting that gentleman's assistance, and I am requested to express his grateful acknowledgments of the same. Mr. Campbell is yet at Sedashigur, and he has forwarded several complaints from that neighbourhood, affording sufficient proofs of his active exertions in the business on which he has been deputed. He has not discovered any thing very valuable on either of the estates of the two principal offenders, but I do not in any way despair of ultimately recovering all that is concealed. I have credible information of a very valuable box being somewhere hid, and I am trying all possible means to discover the place of its concealment. The property reported in my last is in the treasury of the Collector, Mr. Read, who very willingly received the same, and was further pleased to superintend the valuation and arrangement of it. I beg leave further to bring to the notice of his Excellency the Governor in Council, that I have requested of that gentleman to receive and adjust by arbitration a variety of petty complaints, which in this season of cultivation are daily arriving, and which chiefly relate to disputes to the right of village. Mr. Read immediately professed himself happy to assist the Court in this eventful crisis, and I therefore take the liberty to submit the conduct of this gentleman to the favourable notice of Government. I am at present employed in perusing and sorting the papers and accounts dug up in the gardens of the two principal offenders: amongst these I have discovered a supposed memorandum of what the valuable box already alluded to contains, and, as I have every hope of recovering it, I am happy to say, that in this alone will be obtained no less a sum than 15,000 rupees. I shall continue my inquiries daily, and will not fail to address his Excellency the Governor in Council upon all occasions wherein it may be necessary or advisable. I have commenced a regular trial of the late head Sheristadar, and have selected from the complaints against him, individually, one which charges him with having received 4,321 rupees from the merchants of Mangalore, for the promise of his influence to procure them permission to export rice after the late embargo had been placed thereon. I shall, of course, continue to receive all additional complaints from day to day, and have to report the several Commissioners having arrived, I have placed their persons under restraint, and shall proceed against them as soon as possible.

I have, &c.

(Signed) A. WILSON,
Judge and Magistrate.

Zillah Court, Canara, June 1813.

EXTRACT

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 13th July 1813.

READ the following letter from the Judge and Magistrate at Canara.

To the Secretary to Government, Fort St George.

SIR:

Madras Judicial Consultations, 13 July 1813.

Before proceeding further into the trials of the late infamous mal-practices of the native servants of this establishment, I have the honour to request that his Excellency the Governor in Council will be pleased to consider of the facts which I am about to state, that I may be honoured with some final orders, whether to try and condemn the two principals, submitting my proceedings to Government, or to prepare the several complaints for commitment before the circuit court. After the receipt of your letter, under date the 21st ultimo, I commenced a regular trial of the charges against the head Sheristadar, named Pootapah, and having finished five of the cases, I have now the honour to forward them,* with the following brief summary of their particulars.

No. 1 is a charge of a most serious nature, which is supported by such circumstantial proof, and accompanied by so feeble a defence, that Government cannot be at a loss what conclusion to make respecting the prisoner's guilt. The wife of Shelty Alva having fallen into a well and being drowned, the Tannahdar then stationed in the neighbourhood, together with the village people and relatives of the deceased, made the usual inquiries into the cause of her fate, and believing that her death was accidental, they caused the body to be burned. During my late absence from the court, this Pootapah instigated the brother of the deceased to complain against his brother-in-law, the widower, for the murder of his wife, in order that he (Pootapah) might have an opportunity of extorting a large sum of money from the said widower, who he supposed would gladly make any sacrifice rather than undergo the horror and disgrace attendant upon such a diabolical charge: and this wicked scheme is shewn to have been too successful; for the evidence proves that the widower, named Shelty Alva, has actually paid eight hundred rupees for his release on bail.

No. 2, although not so serious in point of turpitude, clearly evinces the unlimited ascendancy which the Sheristadar possessed over a class of people of all others the least likely to be influenced. The exportation of grain had been prohibited, as formerly reported to Government. The merchants entered into an agreement to deposit a quantity equal to what they might be allowed to export, and three of the principal people gave security that the quantity so deposited should be sufficient for home consumption. The petty merchants agreed to indemnify them for the risk they had incurred in becoming securety, and to export each according to the rate of his own responsibility: they further nominated one person, who was to inform himself that the terms of the agreement had been attended to by those wishing to export, and to procure my orders to the custom officers for the exportation of the grain, a measure which they had all requested might be adopted. These two agreements were entered into in my presence, and every one expressed himself satisfied. The evidence in this case will establish that the person fixed upon, by name Aunapoy, abused the powers with which he was invested, and actually refused to act the part he was called upon to do, until those who were desirous of exporting had previously paid him two pagodas per corge, which he had settled as the rate to be paid to the Sheristadar, Pootapah, and which is proved to have been received by this last person.

No. 3 likewise strongly exhibits the ascendancy of the Sheristadar; for the evidence establishes, that a sum of money was paid for the pretended influence of the Sheristadar in a civil suit, and that the person paying this sum of money, after various excuses on the part of the Sheristadar for continual failure in his promises, was prevailed upon to withdraw his suit, and thus to relinquish all hope of benefit from the sacrifices he had been induced to make.

* The trials are not in the collection. See Consultations, 1813, fol. 4481 and 4468.

Madras Judicial Consultations, 13 July 1813.

No. 4 affords another proof the rapacity and villainy of the Sheristadar. Veerasungiah had instituted several complaints in the zillah court, and, in order to procure the speedy adjustment of them, he was induced to pay a sum of money to the Sheristadar, who promised to comply with his wishes. Finding, however, that this payment had not secured to him the object in view, that his cases still remained unadjusted, and that the Sheristadar made a further demand for more money, Veerasungiah was induced to let him have several articles which he required at a price greatly inferior to their real value. The evidence establishes the payment of the money and delivery of the articles.

No. 5 particularly evinces the base, wicked, and sinful character of the Sheristadar, and the low cunning by which he affected his execrable purposes. From the evidence in this case it appears, that the open audacity which usually marked this man's proceedings was, in the present instance, laid aside for artifice and dissimulation, to induce the plaintiff in a civil suit to become the purchaser of his good-will. The plaintiff was represented as having solicited the Sheristadar's influence, and as having offered twice as large a sum for it, as that which he (the Sheristadar) then tendered it to defendant. This design appears to have been but too successful, as the evidence establishes that the payments were actually made. The examination of this suit commenced when the Sheristadar was at large, and two or three of the witnesses were induced, through dread of him, to withhold their evidence: the depositions taken at that time, and those now forwarded, will consequently be found to differ, a circumstance eagerly adverted to by the Sheristadar, and on which his assertions of innocence appear chiefly to depend. This variation in the evidence, arising as it undoubtedly does from the dread in which the witnesses stood of the Sheristadar while yet at liberty, is so far from forming any just ground on which to rest a plea of innocence, that, on the contrary, it will be found to afford a reasonable presumption of his guilt, as it clearly proves the existence of a most pernicious influence, which could only have been acquired by the most wicked means, and must have been very constantly exerted to have become so general and extensive as to have affected two or three witnesses in one cause. Such is the nature of the complaints already investigated, and the proceedings which accompany will enable his Excellency the Governor in Council to judge of the uncommon degree of guilt which attaches to the Sheristadar. I shall proceed on the inquiry during the interval of this reference, which, I trust, will be as short as possible. There are so many complaints, and all or most of the charges set forth do so greatly exceed in their nature and circumstances the offences generally provided for in the Regulations, that I am really at a loss what to suggest, wishing, as I necessarily do, that all due respect and observance be paid to them when possible; I have, therefore, merely to call to the most serious attention of Government, that the facts stated and disclosed against these two principal delinquents have been so extravagantly wicked, and audacious, and wrongful, both to the public and private security, so subversive of public justice, and so destructive of the rights, liberties, and well-being of society, that I know not well what method to pursue, what punishment to suggest, or what remedy to propose. The pleaders, Commissioners, and other accomplices, with exception of two or three, will be sufficiently punished by dismissal for ever from the service of Government, the effects of which cannot fail to be very beneficial, both as adequate punishment to the offenders, and as strong example to the native community, from which the native servants of the courts of justice will in future be deterred from attempting the like infamous practices. If it shall please his Excellency the Governor in Council to direct that all the complaints now preferred may be proceeded upon for regular commitment before the ensuing court of circuit, I request to be honoured with early orders to this effect; for the circumstances of the present inquiries are so extensive and so serious, and they involve so many interesting matters for public discussion, that I wish to proceed to the end of them all with every possible facility, that I may be the more steadfastly employed in devising means to obtain and secure the most complete and effectual reform. I am induced to urge this subject to the particular notice of Government, from the overwhelming and continuous mass of infamous corruption, extortion, and violence, that is charged against these principals and their accomplices; and I must take the liberty to

to remark, that if some authority be not granted to arrange and conduct these matters, otherwise than by the forms prescribed in the Regulations for ordinary cases, the court cannot hope to re-open for some months, or to apply its present discoveries to the future full benefit either of itself or of the courts in general. It may not be amiss to remark in this place, that part of the property already seized being of a perishable kind, such as clothes, linen, shawls, &c., I beg leave to have authority to dispose of them, for the benefit of those who may hereafter establish demands against the offenders.

I await the final orders of his Excellency the Governor in Council, and trust no time will be lost in transmitting them to me, as the circuit court have already publicly announced their intention of holding a sessions early in the next month.

I have, &c.

(Signed) A. WILSON,
Judge and Magistrate.

Zillah Court, Canara,
17th June 1813.

The following draft of a reply is read and approved.

To the Judge and Magistrate in the zillah of Canara.

SIR:

In my letter of the 21st of May last you were desired, with regard to your proceedings against your ministerial officers, to be entirely guided by the provisions of the Regulations, and his Excellency the Governor in Council conceived that, while these were the only instructions on this point which it was competent for him to give or for you to obey, the several clauses of Section 12, Regulation XII, A. D. 1802, formed a complete rule for your conduct, and would preclude the necessity of any further reference to him, until you were prepared to submit a final report, at least on some of the cases which in due course would come under investigation. It appears, however, from your letter of the 17th ultimo, that in the steps which up to that time had been taken, you have not attended to the instructions furnished to you, in as far as the charges preferred against the ministerial officers of your court have not been considered as *civil actions*, and that, for the purpose of bringing the offenders to punishment, you are desirous of being allowed to adopt further measures which are not warranted by the Regulations. Although it does not belong to the Government to point out to its judicial officers the course of proceeding which the Regulations prescribe, I am directed to observe to you, that the Regulations cannot, by any judicial officer, under any sanction of Government, be either set at nought or perverted, even to answer a good end, and that, therefore, the course of proceeding prescribed by them is the only course which you are at liberty to pursue.

2. As you have not explained the nature of the authority you are desirous of obtaining, to arrange and conduct the matters to which your letter relates, otherwise than by the forms prescribed in the Regulations, the Governor in Council is unable to form a judgment regarding the practicability and propriety of granting it.

3. The Governor in Council authorizes you to sell to the best advantage the property of a perishable kind which has been seized by you, for the purpose of meeting the claims which may be established against your ministerial officers, and to place the proceeds of the sale in deposit.

4. I am directed to repeat the desire of the Governor in Council to be furnished with the fullest information regarding the misconduct of your ministerial officers, and the proceedings instituted against them.

I am, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George, 13th July 1813.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 10*th August* 1813.

READ the following letter from the Judge and Magistrate at Canara.

To the Secretary to Government, Fort St. George.

SIR:

Madras Judicial Consultations, 10 Aug. 1813.

I have the honour to acknowledge, with all possible dispatch, the receipt of your letter, under date the 13th instant, stating that the proceedings of this court against the ministerial officers and others belonging to its establishment were, by your former letter of 21st May, directed to be conducted according to the provisions of the Regulations, which would be found to contain complete rules for my guidance. The reference which I thought it my duty to make on the 17th, appears, as I am much concerned to think, from the letter to which I have now the honour to reply, to have been on this account deemed by his Excellency the Governor in Council either inexpedient or premature; it is necessary, therefore, that I should state particularly the reasons why I have been obliged to consider the present matter before the court entirely unprovided for by the Regulations, and to explain the nature of the process to be adopted, which, as a faithful servant, vested with the sacred charge of the public interests of the Government, and the liberties of many thousands of its subjects, I have thought it my indispensable duty to recommend. To do this satisfactorily, I must beg leave to set forth in one concise view the measures which have hitherto been pursued, the communications of Government respecting them, and the particular nature of the subject under consideration. Immediately on receipt of information against the native officers of the court, I placed the two principal persons accused under restraint, and I reported the same to Government, under date the 1st of May. Shortly after the dispatch of this letter, and in consequence of much additional information, and the discovery of considerable property in money and effects concealed by them under ground, all tending to establish their guilt and the truth of the charges against them, as the chiefs and instigators of high public wrongs and misdemeanors, I was compelled to resort without delay to the most decisive measures, more particularly as the prevention and punishment of the atrocities charged against them did not appear to me to be any where contemplated or provided for in the Regulations. The express purport and intent of Regulation XII, 1802, appearing, as set forth in the preamble, to be exclusively confined to the appointment of the ministerial officers of the court, the allotment of their several duties, and the manner of receiving and trying complaints of partial corruption and extortion against them, not to extensive and pernicious malpractices, subversive of the public rights of the community, for the preservation of which the zillah courts and all their servants are expressly appointed, and to which end these very offenders had been especially sworn. With this idea, I concluded that the proper and only prosecution of these flagrant offenders would be by that Government whose subjects they had wronged, and whose laws they had impiously subverted; I therefore proceeded to shew to the people that their *collective* rights were secured to them (by other than the common formalities prescribed for the regulation of their own *individual and private* circumstances of life), by placing their chief oppressors in irons, and sending them with ignominy to the common jail. This measure was immediately reported, under date the 4th of May, and it is to be remarked that, on that occasion, and after this very circumstance, never resorted to or directed by the Regulation for *civil* process, I requested permission to continue my proceedings. On the 9th of the same month, and in order that I might afford to Government an idea of the *uncommon* and *peculiar* nature of these transactions, I wrote them a general report of their extent and circumstances, into which I was by every possible labour attempting to inquire. In that letter I submitted to Government, that every day's experience justified more and more the measures which had been adopted against the parties accused, whose malpractices were at that time sufficiently proved to have been more serious and extensive than could be well conceived or described, and that I might, as well as the

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limits of a letter would allow me, further shew to Government, how *impossible it was that indemnity could be obtained to the unhappy sufferers for their past distresses.* I gave a brief abstract of the nature of the charges set forth by them against their abandoned oppressors, describing generally how every public and private right had been violated and perverted; in short, I did not omit the mention of any thing which I thought likely to inform the Government of the peculiar nature of those charges; and although it was not positively expressed, yet I certainly did intend to declare myself to be in consequence acting up to their particular nature and emergency, and I flattered myself that the same would be fully approved and thoroughly understood. When in the reply of his Excellency the Governor in Council it was happily found that all my proceedings had met with the entire approbation of that authority, I considered myself, as well from the general tenour of that communication, as from the peculiar circumstances to which it referred, to be authorized to proceed in whatever course appeared to me most likely to conduce to the effectual discovery of all past wrongs, and to the most exemplary punishment of the offenders. When I saw, too, in that letter, that his Excellency the Governor in Council had it in contemplation to call the attention of the different Judges and Magistrates to this subject, after the nature and extent of the abuses practised by the native servants of this court had been more precisely ascertained, I was more than ever induced to conclude that my original opinions were correct, and I felt myself urged by principles of public and private duty to persevere in this line of conduct, which seemed the only course likely to ensure to Government the most complete development of the past infamies, and from which exposure they could not fail to see the necessity of applying this experience, to devise every possible precaution by which the recurrence of abuses so subversive of, and destructive to the paramount interests of their public institutions might be for ever prevented. With these impressions I again addressed the Government, under date the 17th of June, submitting a final report of five of the cases which had come under my investigation, and explaining to his Excellency the Governor in Council the cause of that reference, and submitting the cases which accompanied it, for the purpose of shewing, in a conclusive point of view, that the matters under inquiry were not in their nature or extent either contemplated or provided for in the present Regulations; at the same time informing Government, that I had of myself removed the native servants of the court from their duties, as they were all, more or less, implicated; that I had ordered all the Commissioners to repair to the zillah court, and that I had finally proclaimed to the people these glad tidings, to give them confidence to come forth and assist the court in vindicating and restoring their injured rights; that the complaints had in consequence increased, and that their general nature was not only bribery and corruption, but every kind of public and private wrongs; and I further remarked, that the people would now no longer fear the influence and prosecution of their hated oppressors, for that they now would find that all the measures of this court in their behalf had been happily approved by Government, who had directed the further and most earnest prosecution of the court's proceedings. Having thus attempted to shew, for the information, and I trust to the satisfaction of Government, that I have not unnecessarily delayed, or pusillanimously hesitated in my duty throughout the late occurrences, I must beg permission, in reply to the observations contained in your letter, to assure his Excellency the Governor in Council, that I am not only fully aware that the Regulations cannot, or ought not to be perverted, even to answer a good end, but that I feel myself implicitly bound to abide by them in every case to which they can possibly be applied. The application of this important truth has always, I hope, been observed by me, through a long experience of its necessity and its propriety, during a period of nearly nine years public service in the Judicial department; and here, I trust, it may be permitted me to observe, that I have at all times most conscientiously endeavoured to abide by the obligations of my oath of office, respecting these very essential parts of my duty as a Judge and Magistrate. I have therefore to explain my reasons for not having, in the present instance, considered myself justified, consistently with my duty as prescribed by this very oath, to treat the charges against the ministerial officers of this court as civil actions. In my letter of the 1st of May it was particularly stated,

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that the complaints already received were not preferred by the persons who were said to have given the bribes, but by others, who declared themselves acquainted with all the circumstances, and who were then engaged in producing the necessary proof against the parties. In a *civil action*, the person who has given the bribe institutes the suit, and brings proof to the payment and receipt of the same. The party accused remains at large during the trial, and if the corruption be proved against him he has merely to refund the amount, and pay three times the sum as a fine to Government. Thus the Regulations appear to provide solely for cases of partial corruption, the penalties of which are fines, and probable dismissal from office. In the present cases, however, the parties who paid the bribes have not come forward to prosecute, and it is from the exertion of the court alone that the infamies of its servants have been detected and exposed, to effect which it was found indispensably necessary to put the prosecution into the hands of the Government pleader. This, and my other proceedings against the parties, were considered by me rather preparatory to their conviction and punishment, than any regular or prescribed mode of proceeding against them; and when I had received the evidence upon five separate charges against the two principal delinquents, I lost no time in submitting them for the information and consideration of Government, continuing daily my inquiries during this reference, and in which I had prepared, previous to the receipt of your last letter, for ultimate trial, ninety additional complaints. With respect to my proceedings towards the parties themselves, I have to submit, that if I had not quickly secured their persons, and proceeded with all practicable dispatch to obtain and record the evidence on the different prosecutions against them, it would have been utterly impossible to have proved the same; for their general influence was, and *still is*, so excessive and unaccountable, and their cunning and intrigue had been so long and so *successfully* practised, that every effort and exertion, both on the part of Government and this court, to establish and punish their guilt, would have been rendered abortive: an instance of the probability of which is most conclusively illustrated in the evidence already delivered by some of the witnesses in case No. 5, which I had the honour to advert to in my last letter, wherein the witnesses on the part of the prosecution deposed to their entire ignorance of events which these very witnesses had principally conducted, and to which they have since confessed, alleging as the reason of their falsehood, that their fear and dread of the persons accused, whom only the matters concerned, had deterred them from stating the truth. Here, then, is one of the many and distressing proofs of the infatuated credulity which has so long assisted, encouraged, and *fed* the wicked oppressions and insatiate avarice of these more wicked and insatiate men: I therefore most earnestly beseech his Excellency the Governor in Council to deduce from it a reasonable pretext for this long letter; and I intreat that all which I am now so earnestly proposing to their consideration may be at least imputed to an honest desire, on my part, to serve them with efficiency and honour, and that I may the more fully expose and bring to notice the peculiar disposition of these people, who have for so long a time endured the persecution of two worthless and unprincipled men. Let me now bring to reflection what is their nature and character, under the fervent hope that such representation will bring for them that support and particular interference on behalf of their sovereign rulers, to which their humble spirit and patient endurance of all evil seem so strongly and irresistibly to entitle them. While it appeared, from the measures of the court, that Government had been the mediators of the people, and had determined to resent and punish the audacious oppressions of their servants, who had impiously misapplied opportunities and occasions of assisting and promoting their welfare, by a faithful discharge of their public duties, to infamous and wicked projects of private ambition, the people of course became emboldened to state their grievances, and did in consequence supply the courts with abundance of information against their persecutors. But when it is considered how much danger, expense, and uncertainty, will attend the institution of *civil actions* against those men, who, knowing the evil consequences that will result to them from a successful issue of the suits against them, will certainly exert every endeavour to suborn, by any means, however hazardous and desperate, all descriptions of evidence, in order to falsify the same, it is not to be won-

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dered at, that this persecuted and disappointed people should quietly submit to what they had already given up, rather than run the risk and peril of the many penalties resulting from the failure of their suits, such as heavy costs, and an ultimate prosecution for excessive damages; and I must here explicitly state, that many of the persons who have to this time brought charges against these servants, could not be persuaded to come forward, until they were assured of security from all evil consequences, by the apprehension and confinement of the parties; and even now, if their liberation be insisted upon, this confidence, which is already very much diminished by the release of their associates, whom I could not venture to detain after the receipt of your last letter, will be entirely suppressed. There are, indeed, amongst the many charges against these people, some which of themselves might be considered as civil suits. But how shall we apply the process of civil law to their many public wrongs and injuries, the general complexion of which may be conceived from the following instance of a misprision of felony, wherein the head native ministerial officers effected by their own direct interference, aided, of course, by the influence derived from their official situations, the concealment of a murder perpetrated by one of their brothers, and with all the circumstances of which they were *thoroughly acquainted.* This will serve as an instance by which to judge of the general nature of the system of oppression, tyranny, and corruption, which has so long pervaded this distressed province; and if, amidst the perplexities which must in some way or other attend the detection and exposure of such villainies, I have passed from the usual way of procedure to one less common, or altogether strange, I must appeal for my excuse to that authority on whose account I have strayed. I trust, therefore, most implicitly to his Excellency the Governor in Council, that he will impute my proceedings throughout these matters to a most scupulous attention to the import and obligation of my oath, which obliges me, where no specific rule applies, to be guided by the dictates of equity and good conscience. I do not, however, permit myself to disregard the orders of his Excellency the Governor in Council, and I have, in consequence, announced to the complainants that the charges against the ministerial servants are about to be received as civil suits only, and that they would be proceeded upon agreeably to the provisions of Regulation XII. A. D. 1802. I have taken off the fetters of the principal offenders, but I have continued their persons under restraint, from the conviction that they would abscond the moment that they were set at large, rather than await the issue of the many civil suits and other complaints likely to be instituted against them. I consider this detention as a measure of the most imperious necessity, on which, indeed, the successful termination of the present inquiries will be found altogether to depend: and lest this measure should be disapproved, it is my duty to point out, with all due respect, the effects which, from my local residence and knowledge of the past, I plainly perceive will inevitably follow their liberation. First, the principal offenders will abscond; or if they should venture to remain, they will leave no means untried to corrupt and falsify every prosecution against them. Secondly, the parties will be deterred, through fear, from coming forward; and thirdly, the principals in evidence will withdraw themselves. In short, an enquiry commenced, and until now prosecuted with the most promising hopes of success, will become suddenly enveloped with every difficulty and doubt, and I fear rendered altogether futile, by the successful machinations of unprincipled villains, and the lamentable credulity of the unfortunate sufferers, of which we have already had the most conclusive and unhappy proofs. I beg once more to assure his Excellency the Governor in Council, that my whole time and thoughts have been unremittingly employed in the examination of these matters, from the period of my last reference to the present moment, and that I had, by these means, prepared ninety cases for delivery to the circuit court, under the conviction that Government would have authorized a reference to that or some special tribunal. I cannot conclude without solemnly disclaiming, throughout the whole of my proceedings, any the most distant intention of resistance to legal authority. The sole object of my earnest desires and labours has been to ensure to the Government every possible advantage from the present discoveries, by which the zillah courts might henceforth secure to themselves the due administration of the public duties belonging to all of their servants, and that the example afforded to them by the just punishment

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ment of the present delinquences, should serve to them as a perpetual warning of the sure and dreadful fate that awaits any dereliction of the duties committed to their charge, for the security and welfare of the native community. The means now proposed to effect this object have been suggested by a conscientious regard to the sacred obligation by which I am bound; and having thus attempted to acquit myself faithfully of the sacred trusts committed to my charge, it remains for me merely to obey implicitly the orders of my superiors, and to exert every faculty to give these orders both vigour and effect: I shall, therefore, continue to devote my whole attention to the present inquiries, and shall from time to time, as the civil proceedings on the different cases are closed, transmit for the final orders of Government the whole of the information which I may be able to acquire. The purpose of the present address is, I trust, satisfactorily explained, and I submit the observations which it contains as the result of my own immediate acquaintance with the events, circumstances, and persons to which it relates; and if, from my treatment of things so unforeseen and unprovided for, some little irregularity be any where perceptible, it will, I trust, be found to be less objectionable and more remediable, than the evil consequences which must have resulted from an indiscriminate observance of forms not apparently suited to present emergencies: and I must once more bring to notice, that while I considered it would be the chief object and wish of Government to avail itself of the discoveries in this court to the future advantage of all *its judicial establishments*, I naturally pursued *those measures* only which were the most likely to promote and effect this purpose; so that, above all things, these native servants might learn and remember the inevitable fate which threatens all mal-administration of their offices, and that the Government and the courts might devise particular rules and regulations for every detail and process of their institutions, by which precautions and securities the true and faithful administration of justice would be for ever established.

I have, &c.

(Signed) ALEXR. WILSON,
Judge and Magistrate.

Zillah Court, Canara,
26th July 1813.

The following draft of a reply is read and approved:

To the Judge and Magistrate in the Zillah of Canara.

SIR:

Par. 1. I am directed to acknowledge the receipt of your letter of the 26th ultimo, in which the Governor in Council finds no new matter, requiring instructions different from those with which you have already been furnished.

2. His Excellency in Council has all along participated largely in your sentiments of regret at the corruptions which have unfortunately been suffered to prevail to so great an extent in your zillah, and his most earnest desire has been, that the discovery of them should be converted into the means of guarding against the future occurrence of the same pernicious practices. Under these impressions, his Excellency in Council commended the spirit in which your investigation of those abuses was undertaken, exhorted you to prosecute it with activity, and desired that all your proceedings connected with it might be reported for his information.

3. The only instructions furnished to you, with respect to the mode of conducting your proceedings, have been, that you should abide by the course laid down in the Regulations for your guidance. How such instructions (which your oath of office and the dictates of your duty were sufficient to render superfluous, and which were furnished only in consequence of your express application) should have come upon you unexpectedly, and have compelled you to alter the course in which you had previously deemed it proper to proceed, the Governor in Council is at a loss to understand. These, as was before stated to you,

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you, seem to be the only instructions which it was competent either for the Governor in Council to issue, or for you to obey; and it does not appear in what manner they can possibly produce any consequences, not inseparable from the existing state of the law and rights of the parties concerned. That the parties have rights, however criminal their conduct may have been, is unquestionable; and that the law (whether its particular provisions on this head be expedient or otherwise), should enable them to maintain their rights, is a point of greater importance than that the offences with which they are charged should meet with complete detection and adequate punishment. You cannot but be aware, that the erroneous instructions of your superiors would not secure impunity to you for any breach of those Regulations, of which the parties are entitled to require your punctual observance.

4. If the provisions of the Regulations are found to be improper or defective they are open to be revised and amended; but while they stand, they are paramount to all other authority, in as far as concerns the duty of a Judge, and the privileges of the people subject to his jurisdiction.

5. You contend that the Regulation which provides for the trial of partial corruption and extortion is not applicable " to extensive and pernicious mal-" practices, subversive of the public rights of the community;" but the Governor in Council is unable to discover any colour of reason for depriving, in any case, the accused of the protection of the laws, merely on account of the aggravated nature of the offence laid to his charge, and conceives that the admission of such a principle would inevitably lead to the most gross and manifest injustice. In framing the Regulation in question, it may have been presumed that the ministerial officers of the courts could never be charged with more than partial acts of corruption and extortion, under the belief that the vigilant superintendence of their superiors would entirely preclude both the practicability and the suspicion of their being guilty of a more general system of abuse; but if, from any cause, this presumption has proved erroneous, acts of corruption and extortion are still to be investigated, and the authors of them to be punished only in the manner which, under an erroneous presumption, the Regulations have prescribed.

6. The Governor in Council apprehends, that whatever might be urged on the score of expediency, or in deference to the orders of Government, the court of circuit, under the present provisions of the Regulations, could not entertain any suit against your ministerial officers for acts of corruption and extortion, and that it therefore would answer no good purpose to institute such a suit against them before that tribunal.

7. It may happen that the acts of extortion and corruption, laid to the charge of the ministerial officers of your court, may in some cases have merged in other offences cognizable by the court of circuit, and in such cases it will be your duty, under the Regulations and the instructions of Government, to prosecute the parties before that court. Acts of extortion and corruption cannot shield their authors against the punishment due to other crimes.

8. You express your intention of transmitting, for the " final orders of " Government," the whole of the information on the different cases which you may be able to acquire; and I am directed to observe that, in transmitting such information, you will act in conformity to the instructions already addressed to you. It is presumed, however, that by " final orders of Govern-" ment," you do not mean a decision of Government upon the evidence obtained in each case, since such a reference, on your part, and such an interference on the part of Government, are unwarranted by the Regulations, according to which your proceedings are to be guided.

I am, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George,
10th August 1813.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 13th August 1813.

READ the following letters from the Judge and Magistrate of Canara.

To the Secretary to Government, Fort St. George.

SIR:

Madras Judicial Consultations, 13 Aug. 1813.

I have the honour to forward, for the information of his Excellency the Governor in Council, a translation of a petition which was presented in court by Maudapah, one of the ministerial servants now under restraint. To enable his Excellency the Governor in Council to judge of the degree of credit to which this petition is entitled, and at the same time to prevent the necessity of further reference, I shall briefly describe the nature of the transaction to which it alludes. Having had occasion to remit some money to Bombay, this person procured from a native merchant the bills of exchange for the sums required. These bills were drawn in Bombay mohurs, a coin which bears a trifling higher value at Bombay than it does in this province, and the merchant was paid, as far as practicable, in the same coin. The mohurs, which were sometimes procured through the means of this man, were instantly paid for at the full price they invariably bore throughout the province, and these remittances, which ceased altogether fifteen months ago, were confined simply to the surplus of my monthly salary, of which the mohurs procured formed but a very small proportion. This is the whole of the transaction. I trust that it is unnecessary for me to assure his Excellency the Governor in Council, that the petition containing such a malevolent attack on my character is made up altogether of falsehood, or that I shall be at all times ready to explain every private transaction in which I have been concerned.

I have, &c.

(Signed) A. WILSON,
Judge and Magistrate.

Zillah Court, Canara,
2d August 1813.

To the Zillah Court of Canara.

The Petition of Maudapah, written on the 31st July 1813.

The Judge, Mr. Alexander Wilson, having called upon me to get money for him, under the pretence of procuring mohurs, I told him for one month that I would not engage in such transactions, and represented that the mohurs bore a price of fifteen rupees, and that they could not be procured even at that rate, and tried to excuse myself several times. I was urged three or four times every day to procure these mohurs, and ordered to get them from the pleaders at the rate of fourteen rupees each mohur. Being under his orders, and unable to resist, I borrowed money from different people, and purchased mohurs at fifteen rupees each: these mohurs were received by that gentleman at fourteen rupees each, and the amount was never paid me. I have many witnesses to this, and if another gentleman makes enquiry into this, I will inform him of all the particulars. The above gentleman, independent of these mohurs, has received from me other sums under various other pretences, amounting to thousands of rupees. I will produce these accounts. These rupees, which I have borrowed from other people, and other rupees due on petty accounts, have been falsely brought forward against me as bribes, which I am accused of having received. Pootapah informed Mr. Gahagan of all this in the presence of the doctor, and requested him to report these circumstances to Madras. I know not what Mr. Wilson and Mr. Gahagan have spoken together on the subject. I suffered much violence while confined in irons, and by ill treatment am reduced to a skeleton. The Company's Subidar, Jemedar, and havildars, are witnesses. I have been detained for three months in close confinement, and am very ill; therefore if I have made any mistakes in the

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facts above related, or in the writing, I hope I shall be excused. A copy of this petition must be sent to the appeal court, as also to Madras. Independent of this I have a great deal to relate, but it must be done by word of mouth.

(Signed) MAUDAPAH.

(True translation.)

(Signed) A. WILSON,
Judge and Magistrate.

To the Secretary to Government, Fort St. George.

SIR:

I have the honour to forward extract of an appeal petition from Pootapah, the head ministerial officer of this court, against a decree of the court in a civil suit, wherein he was cast to the amount of rupees 3,265, and wherein Shetty Alva is plaintiff, and who sues for the recovery of a bribe paid. I shall forward this appeal in due form to the appeal court, but have thought it my duty, in the mean time, to submit the accompanying extract of it to Government, because the subject does not relate to the cause appealed, and because it is obviously written by the defendant for the express purpose of impeaching my public character, now that he thinks it impossible that he can otherwise exculpate himself from the many charges and criminations pending against him. As I do not feel it necessary or incumbent upon me to take further notice of this contemptible production, I shall content myself with referring it to the consideration of his Excellency the Governor in Council, whose orders respecting it I shall of course be happy and prompt to obey.

I have the honour, &c.

(Signed) A. WILSON,
Magistrate.

Zillah Court, Canara,
5th August 1813.

Extract of an Appeal Petition from Pootapah.

The Judge confined the witnesses, Annapoy and Ramchundrabut, and several others, for three months, put a guard over their houses, frightened them by telling them that he would put them in irons, and send them to jail: all this he did to induce them to give false evidence, therefore Annapoy has deposed falsely. This I will prove before the appeal court. The court servant, Maudapah, and I were at enmity with each other, and upon the occasion of Maudapah's nephew being appointed a Commissioner, we had an open rupture before the Judge. The Judge (Mr. Wilson) called Maudapah and myself to his house, and told us not to quarrel, made us adjust our dispute amicably, and some days afterwards the Judge, knowing that gold mohurs were not to be procured for fifteen rupees each, ordered us to get them at fourteen rupees; and when we represented that they were not to be had, and that if we got them we should sustain a loss of one rupee per mohur, the Judge replied, that in so large a zillah, and amidst so many merchants, they must be procured, and constantly urged us to get them. We represented, that if any complaint came against us on this score, we should be ruined. The Judge replied, that he had settled the suit of Trimul Row and Venketrow, wherein they were accused of bribery, and that they had not lost their situations, and that if any complaints came against us he would nonsuit them, and that we must procure mohurs; we therefore, relying on this assurance, borrowed from merchants and others, and procured for the Judge from one to three hundred mohurs monthly, at fifteen rupees a mohur, and the Judge paid us at the rate of fourteen rupees a mohur. All this I will prove. Besides this, the Judge ordered us several times to borrow for him some rupees, and to procure for him cloth and other things. In consequence of these orders

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Madras Judicial Consultations, 13 Aug. 1813.

we procured for him several thousand of rupees, and all kinds of things that he required, from merchants. These rupees have only been returned in part; and the Judge, aware that many people were still unpaid, put the merchants, to whom these sums were indebted, in confinement, in order to make them bring them forward as bribes, and after receiving Annapoy's evidence, has decreed the suits against me. In this way did the Judge (Mr. Wilson) allude to Trimul Row's decision, and assure us of his protection, and procured, through our means, many thousand of rupees: all which I will prove before the appeal court. Besides, there are many instances in which Mr. Wilson has violated the Regulations to promote his private ends, and this I will establish before the appeal court. In this way the Judge, aware that I was about to bring to light the orders he had given, and the sums he had thus acquired through us, conceived that if we were thrown into prison and put in irons, the whole of this would be concealed; and although I begged that the complaints against me for bribes might be decided in the civil court, according to the Regulation; that I offered, if necessary, to go to confinement, and to give up to the Cirkar the whole of my property; although I offered to give security, and begged that a decree might be passed agreeably to the Regulations, from which I might appeal if dissatisfied; although I urged all this to the Magistrate, he refused to hear it, broke through the Regulations, and received through Narnapah, a person who had twice committed irregularities, complaints against me, and without inquiry put me in irons, threw my brothers into prison, put a guard over my house, my women, and family, and went daily with the Register, Mr. Gahagan, a hundred prisoners and a hundred peons to my house, plundered it of all the things, and did not leave a single cloth for any of the children, but brought off every thing they could lay their hands upon. For fifteen days was my house dug up and my property plundered. Independent of this, the house of my father at Sedashigur, that of my brother at Hulgi, and that of another brother at Onore, were all plundered by Mr. Campbell, who was sent for the purpose. The houses at Sedashigur and Hulgi were dug up to the depth of three cubits. During this plunder the Judge got possession of three-fourths, and the Peons and prisoners the rest. All this violence I will prove. Last jetra bohul amavashi I was put in irons and confined. For some days I was deprived of food, that by these measures my death might be effected, and the acts of the Judge might be concealed. I told all this to the Register before two witnesses, but he would not listen to it, and I was deprived even of my allowance of water; but the justice of the Government ordered my irons to be taken off and my person to be released. My irons were removed, but I was remanded to prison. The Judge, aware that his reports to Madras would be proved false, confined those with whom I had some money concerns, in order to make them swear that such transactions arose in bribery and corruption, frightened them, and instructed them in the evidence they were to give against me (through the means of Nagapah, Narnapah and others), made them give false evidence, examined one, two, or three witnesses a day, and has passed an unjust decree against me. The Judge has plundered my property, my brother's property, and my father's also, and I know not what attempts he may make against my life, or what misrepresentations he may make to the appeal court or to Madras; therefore I have made this representation, as I am a servant of the Cirkar. It matters not if they take all my property or all the property of my family; but I know not what attempts may be made on my life, and I have therefore written thus fully. When this arzee is received by you, I care not what attempts are made on my life; but I have written this that the violence and injustice of the Judge of Canara should be known to the Sudder court and to the Governor in Council.

(A true extract)

(Signed) A. WILSON,
Magistrate.

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The following draft of a reply is read and approved:

To the Judge and Magistrate in the Zillah of Canara.

SIR:

I am directed to acknowledge the receipt of your letters, dated the 2d and 3d instant, with their several enclosures, and to inform you, that although his Excellency the Governor in Council considers every instance in which inferior public servants are employed to transact the private business of the officers of Government to be matter of regret, he nevertheless regards the allegations contained in the papers which you have transmitted, precisely in the same light in which they are represented by you, and reposes unshaken confidence in your integrity and honour.

Madras Judicial Consultations, 13 Aug. 1813.

I am, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George,
13th August 1813.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 27th August 1813.

READ the following letter from the Judge and Magistrate at Canara:

To the Secretary to Government, Fort St. George.

SIR:

I am very sorry to be under the necessity of stating, for the information of his Excellency the Governor in Council, that the friends and associates of Pootapah and Maudapah, the late ministerial officers of this court, now under confinement, have been busily employed, from the moment of their liberation (as reported in my last letter) to the present hour, in suppressing, by all possible means of promises and intimidation, the preferment of any civil actions against themselves and their two infamous patrons. It is with additional regret and mortification that I have further to bring to notice, that all my conjectures to this effect, as detailed in my last address, are now most amply verified. Previous to the receipt of your directions, "that these charges should be considered and tried as civil actions," and while all the principal offenders were under confinement, I had received one hundred and fifty-eight complaints against them, all of which, with perhaps one or two probable exceptions, were evidently very well founded. Of these one hundred and fifty-eight complaints, twenty only have, to this day, been received in the new form of civil actions; such is the lamentable effect of the intrigues, power, influence, and ascendancy, which these men and their confederates have so unhappily established throughout this zillah. The enclosed copy of a letter received from the Collector, will further testify how much is to be feared from the evil consequences likely to result from this dangerous influence, and seeing, as I do, the inevitable disappointment of all the hopes of Government, and of all the exertions of this court, if the present opinions and intrigues be allowed the least further dissemination, I have thought it my duty to circulate a proclamation to all parts of the province, encouraging the people to come forth with their complaints. I know, however, that I shall never induce many of them to brave the trouble and inconvenience resulting from the preferment of a civil suit: but I am resolved that no assistance or encouragement shall be wanting to them from this court, and yet, with more than due encouragement, the people will still withhold their suits. They say that they at first conceived that Government required proof only of the late delinquencies on the part of the court servants, and that they came forward merely to prove to Government and the court what had so long prevailed, looking only to partial benefit to themselves in the recovery

Madras Judicial Consultations, 27 Aug. 1813.

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very of the value which they had lost: but now that they are to prosecute and wade through subornation of perjury, the chance of being cast in fines, costs, damages, and appeal, they say that they had rather quietly endure the loss of what they have already parted with, than encounter all these evils, and the probable persecution of the principals, or some of their abettors, who they dread are to be let loose upon them once more. The conduct of the two principals is particularly deserving of notice. The two papers which I had lately the honour to submit to the consideration of Government will enable his Excellency the Governor in Council to form some opinion of the mischievous spirit which at present actuates these men: indeed, it is difficult to describe their various expedients to insult and bring into contempt the proceedings of the court, to intimidate, to perplex, and confound the opinions of their enemies, and to retard and prevent all process against them. They are contemptuous in court, they arraign my character to the guards about them, they proclaim their determination to appeal every single cause that shall be decided against them, and they cite witnesses from the most distant parts of the country. Two of their party have already gone to present petitions to the appeal court at Tellicherry, and the remainder are intent upon every possible mischief, to prevent the just and quiet process of justice at this place. I therefore think it my imperious duty to solicit the attention of his Excellency the Governor in Council to all these things, and further to request, that Government will be pleased to grant me authority to prosecute on their behalf, for the recovery of the fines denounced in the Regulations, all those cases of bribery originally preferred, and wherein the complainants, through fear or other cause, may now be inclined to demur in proceeding against the offenders by civil process; in which case the persons who first presented the complaints, and who are now fearful or distrustful of the consequences of proceeding, may be put aside as plaintiffs, and be summoned as evidences on the part of the Government. I shall, of course, exercise this authority discretionally, and wherever I find a person or persons disposed to appear themselves as plaintiffs, they will be permitted so to do. If his Excellency the Governor in Council should be pleased, upon consideration, to grant me this authority, and further grant me permission to continue the persons of the two principal delinquents under restraint, I have every possible satisfaction in looking forward to a speedy and most effectual termination to the present inquiries. I beg leave further to suggest, that all the property in money, effects, and land, seized and belonging to these men, be disposed of without further delay, in order that an exact amount of their means to defray the present and future claims against them may be properly ascertained; and as it is evident that these claims yet to be elicited, both on the part of Government and the people, will very much exceed the amount to be derived from the sale of their property, I take the liberty to recommend that, after the conclusion of the present inquiries, a general dividend be made of the sum total, and distributed at an apportioned rate amongst the respective claimants.

I have, &c.

(Signed) A. WILSON,
Judge and Magistrate.

Zillah Court, Canara,
9th August 1813.

To the Judge in Canara.

SIR:

I have the honour to forward you copy of a letter lately received from my Assistant, and shall be obliged by your stating your opinion as to the expediency of issuing a proclamation of the nature he requires; also, whether there is any impropriety in his having caused the surplus grain found in the houses of Pootapah and Maudapah to be sold.

I have, &c.

(Signed) A. READ,
Collector.

Mangalore, 7th August 1813.

To

To Alexander Read, Esq. Collector in Canara.

SIR:

Madras Judicial Consultations, 27 Aug. 1813.

In consequence of the report that the late Sheristadars of the court were about to be released from confinement, I understand that a general alarm prevails amongst the inhabitants in this part of the country, and more especially amongst them who have preferred complaints against the court servants. In order to encourage those persons who have already lodged complaints to prosecute them in the form of civil suits, it would be of much consequence if you yourself would issue, and prevail on the Judge to issue proclamations, assuring the people that these men never will be employed again in the service of Government, or have the power to injure them, and inviting those who have already given in complaints, and those who may still have them to prefer, to come forward and prosecute.

The Ankola Tehsildar having represented to me that the grain found in the houses of Pootapah and Maudapah was more than enough for the support of the families till the crop of the season was cut, I have directed the overplus to be disposed of, and the proceeds to be forwarded to the Treasury.

I have, &c.

(Signed) W. CAMPBELL,
Assistant Collector.

Onore, 4th August 1813.

The following draft of a reply is read and approved:

To the Judge and Magistrate in the Zillah of Canara.

SIR:

Par. 1. I am directed to acknowledge the receipt of your letter of the 9th instant, in which you request authority to continue under restraint the persons of your two late head ministerial servants, and to prosecute them for the fines to be eventually awarded to Government, in the cases of those complaints of bribery and corruption preferred against them, in which the parties complaining may decline to carry on the prosecution themselves. His Excellency the Governor in Council will entirely approve of the adoption of the proposed measures, or any others calculated to promote the ends of public justice, if they be warranted by the Regulations, and therefore has only again to desire that the most effectual legal steps may be taken for the accomplishment of the important object, to which your attention is at present so properly directed.

2. The Governor in Council conceives that all the property of the delinquents which may be forthcoming will be held ready to be employed in satisfaction of the decrees which the court may from time to time pass against them, unless the court itself should, in this respect, have regard to any similar complaints which may be pending, and that the Government has no authority to obstruct the process of the court, for the purpose of making, at last, a proportionate distribution of the property among all the parties in whose favour decrees may be passed. The Governor in Council will, however, be disposed to forego all claim to the fines adjudged to Government, till the whole of the prosecutors have obtained a restitution of their property from the delinquents.

I am, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George,
27th August 1813.

EXTRACT

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 31*st August* 1813.

READ the following letter from the Judge and Magistrate at Canarna:

To the Secretary to Government, Fort St. George.

SIR:

Madras Judicial Consultations, 31 Aug. 1813.

I have the honour to state, for the information of Government, that I yesterday solicited the sanction of the Sudder Adawlut for keeping open the court of this zillah during the ensuing vacation, and I have to apologize to his Excellency the Governor in Council for the apparent irregularity in this proceeding, which the pressure of business occasioned, and will I hope excuse. I have further the honour to acknowledge the receipt of your letter, under date the 10th instant, and to report, for the satisfaction of Government, that the inquiries in this court are proceeding with all reasonable facility and success. The parties under accusation use every effort to impede and protract them, by wantonly summoning distant and unnecessary evidences, and by intimidation to some and kind promises to others. I have been obliged to fine and imprison (by way of example, in the first instance of such interference) the brother of one of the principal offenders, against whom a complaint was preferred to this effect; and I have further to state, that both the principals are still in confinement, the necessity of which this very circumstance will sufficiently prove. Indeed, it would be difficult, under any terms, to grant them liberation, even if the consequences of such release could be previously ascertained, for the public and private demands against them do already exceed whatever their means could enable them to defray; so that the continuance of this restraint is, on every account, indispensable. I beg, nevertheless, explicitly to avow, that it has never been my wish to adopt or pursue any measure which contradicts or militates against the clear principles of those rights which are due by the law to every subject. It is, on the contrary, my most earnest desire to secure and apply them to such purpose, that whatever privilege the law bestows may be easily obtained and securely enjoyed; but it is, at the same time, my duty to see that these equitable privileges be not again wrested to the mischievous and infamous purposes of perverting and destroying the law itself. I have the honour, on this occasion, to assure his Excellency the Governor in Council of my strict attention and obedience to his instructions, as contained in your letters. All these subjects I shall have hereafter to detail; in the mean time, I will not fail to apply my utmost diligence and attention, to secure to Government and the public every possible information and advantage that can be made to accrue from the present proceedings.

I have, &c.

(Signed) A. WILSON.
Judge and Magistrate.

Zillah Court, Canara,
20th August 1813.

Under the instructions already furnished to the Judge and Magistrate in the zillah of Canara, on the subject of the foregoing letter, it does not at present require any answer.

EXTRACT

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,

The 4th January 1814.

READ the following letter from the Judge and Magistrate at Canara:

To the Secretary to Government, Fort St. George.

SIR:

Madras Judicial Consultations, 4 Jan. 1814.

I have now the honour to forward, for the information of his Excellency the Governor in Council, a statement* of the causes instituted against the head ministerial officers of this Court, and a detailed account of those suits which have been decided against them.

1. The first cause which came on for trial was instituted by Shetty Alva, for the recovery of eight hundred rupees which the defendant, Pootapah, the Sheristadar of the Court, was charged with having received from plaintiff, for effecting his release on security from the Cutwall's choultry, where he had been confined three days on a charge of murder, which charge the defendant is also accused of having caused to be preferred. The evidence adduced in proof of the overtures made to defendant for plaintiff's release, and also of the payment of the sum claimed in this suit, is so clear and circumstantial, that I felt no hesitation in decreeing restitution of the amount, and payment of the fines denounced by the Regulation. The assertion, that defendant instigated the original complaint is not fully established: it is, however, rendered more than probable, by the declaration of the complainant, who was the brother of the deceased, and who affirmed, that although it was his original intention to proceed against the plaintiff at some future period, when he should have obtained proof of the murder, that he was induced to do so at this particular time, in consequence of orders which the defendant had sent to him, and of the threats held out in case of non-compliance. The death of the complainant's sister (for which the plaintiff was apprehended) occurred three years before, and the circumstances attending it were enquired into by the police officer on the spot, and reported at the time. The plaintiff was sent to court during the time I was absent on duty above the ghauts, and was released by the Register, who had been directed to set at large all prisoners sent in from the talooks on certain description of charges, provided that they could produce good and sufficient security for their appearance on my return. Fifteen witnesses, many of whom are relations of the deceased, and saw the body after her death, have lately been examined in support of the original charge; and it appearing that the deceased, who had been afflicted with a severe illness, had drowned herself in a fit of despair, and that there was no just reason for supposing the plaintiff implicated in the act, the complaint was considered altogether groundless, and the parties were accordingly dismissed.

2. The next cause decided was preferred by Gooroosidapah against Maudapah, the other head ministerial officer, and was instituted to recover one thousand rupees paid the defendant, as a bribe for the purpose of procuring for plaintiff a speedy inquiry into his suit, and an early dismissal from court, where he had attended to answer to a charge of having carried off and detained another person's wife. The defendant denied all knowledge of the transaction, but omitted to attend in person or by vakeel to make good his plea, although repeatedly called upon to do so. The officers sent to apprize him of the periods at which the inquiry was proceeding were treated with abuse, and the whole of his conduct was so contumelious that nothing remained but to proceed *ex parte*. The evidence adduced in support of this suit establishes, that the plaintiff was intimidated by defendant's telling him that the charge was of the most serious nature; so much so, that he could not be permitted to remain at large until the inquiry took place, but that he must be sent to the Cutwall's choultry, and detained there until the business was settled. The plaintiff, in order to extricate himself from these difficulties and to procure his dismissal from court, consented to pay the defendant one thousand rupees; and this sum is so clearly proved to have been delivered to the defendant, that I have adjudged it, as also the

* Omitted in the collection: see Consultations, 1814, fol. 173 to 197.

Madras Judicial Consultations, 4 Jan. 1814.

the fine against him. The original complaint in which this bribe was paid was adjusted amicably, and the circumstances which then occurred strongly evince the credulity of one party and the influence of the other. The plaintiff had paid a large sum of money to effect an object which appeared to him of the highest moment: he found himself disappointed in this object, and detained at Onore two months after the payment of the bribe, contrary to the positive assurances he had received, and in direct violation of the conditions under which the bribe was paid. At the end of this period he had a conversation with me on the subject of his complaint, in which he expressed himself perfectly satisfied with the adjustment. The person who complained against him had entered into, and signed the counterpart of the agreement in my presence, without complaining against the defendant, or mentioning a syllable which might lead to a suspicion that any imposition had been practised against him.

3. The next cause which came on for trial was preferred by Sheoobussapah against Maudapah, for the recovery of two hundred rupees, paid at two periods, one hundred for the purpose of procuring permission for some of plaintiff's people to return home, and another hundred for the purpose of expediting his own dismissal from court.

The plaintiff, his wife and sister, had been accused of having forcibly taken possession of a neighbour's property, and of having turned him out of his house: they were sent into Onore upon this complaint, and settled with the defendant for the payment of the sum claimed in order to expedite their departure. The defendant denied having received such sum; but, as in the latter cause, omitted to attend, although called upon to do so. He made his appearance in the middle of the trial, and conducted himself with such open violence, and interrupted the proceedings with such contumely, that I was obliged to turn him out of court, and proceed without him. The proof adduced establishes the payment from plaintiff to defendant of the sum claimed for the particular purpose set forth in the petition, and the amount, with the fine, was accordingly adjudged against the defendant. The defendant's brother is represented as having instigated the original complaint; and although proof of a positive nature is wanting on this head, there is reasonable cause for concluding the assertion to be true, both from the nature of the complaint, which was found to be litigious, and from the declaration of the person preferring it, who affirmed that he was urged by defendant's (Maudapah) brother to bring forward the charge. In the circumstances of this suit, which was brought on in due course, may be found another strong proof of the defendant's ascendancy. The bribes had been paid previous to the inquiry, which was conducted by me in the presence of the parties; and the vexatious nature of the suit, as also the malignity of the complainant, were so fully apparent, that I fined him, in order to deter others from similar conduct. This was an opportunity which it is natural to suppose would have struck the plaintiff as favourable for a disclosure of any illegal demands which had been made against him, and with which he had been, through dread or otherwise, induced to comply. He allowed it, however, to pass unnoticed, and chose to observe the most profound silence on a subject of such paramount consideration, although he had an instance before his eyes of my disposition to secure his interests against the slightest attacks of malice, and of my solicitude to punish abuse, even in matters of such comparatively trifling consequence.

4. The next cause decided was preferred by Antamshitty against Maudapah, for the recovery of four hundred rupees, given to defendant as a bribe for procuring the plaintiff's liberation on security.

The plaintiff was sent in on a charge of having caused the death of the complainant's brother, and represents that he paid the defendant the amount now claimed, in order to prevent his being confined in the Cutwall's choultry, until the inquiry into the complaint preferred against him could be commenced upon. The defendant in his answer denied the charge. He was ordered to attend, but neglecting to do so, the cause proceeded *ex parte*. On examining into the evidence adduced, it appeared that the plaintiff was sent into court one or two days before the defendant left Mangalore with me for the Soonda country; that he sent to defendant to arrange with him for his liberation on security, and that, pursuant to the agreement then made, four hundred rupees was the

amount

amount which defendant was to receive for his good offices, which sum was accordingly paid him on the very night on which the plaintiff was released. Such is the evidence produced in this cause, the whole of which appeared so clear that judgment was pronounced in favour of plaintiff, and the usual penalties decreed against the defendant. It may be necessary here to remark, that some days previous to my leaving Mangalore for the upper country, aware of the improbability of my speedy return, and of the inconvenience to which many of those confined on charges which had not been examined into would necessarily be subjected if detained during my absence, I gave notice in court, that all prisoners, with the exception of those confined for crimes of a heinous nature, would be liberated until my return, provided they could produce security for their attendance at that period. At the same time I directed the defendant to ascertain who were able to produce this security, and to cause the attendance of the parties in court. This arrangement, which appeared so well calculated to relieve those who were confined from all the hardships of unnecessarily protracted imprisonment, and which (under the precautions detailed in a subsequent part of my letter) had obtained, with respect to petty suits, for some time previous, has been abused like many others, and converted into the means of enriching the head servants, at the expense of those for whose particular benefit it had been originally intended.

5. The next cause decided was instituted by Pursiby against Pootapah, for the recovery of six hundred rupees, paid for his assistance in a civil suit.

A civil suit had been preferred for the recovery of an estate, to which the plaintiff in the present suit was heiress, and under the apprehension that the cause would be decided contrary to her interests, she made application to the defendant to avert the danger with which she thought herself threatened. The evidence adduced in support of this suit establishes that application was made to the defendant, and that he informed the plaintiff that her adversary had offered one thousand two hundred rupees for his influence, but that she should have it provided she would pay six hundred rupees, for which sum the defendant engaged to get the cause settled to her satisfaction; that the above sum was accordingly paid the defendant, in three different payments of two hundred rupees each, and that the defendant, after such payment, urged the plaintiff to agree to an amicable adjustment, as the cause would inevitably go against her. The proof of the above payment to defendant of six hundred rupees, for the purpose set forth in the petition, was established by such circumstantial evidence, that restitution of the amount was decreed against defendant, as also the penalties denounced by the Regulation. Here is another instance of credulity, so gross in its nature as almost to confound belief. A tender is made the plaintiff, by a perfect stranger, of an influence which the possessor declared he could dispose of to her adversary for twice the sum he then demanded, and the plaintiff, instead of doubting the existence of an influence, proffered under circumstances of so equivocal a nature, assents to the proposal, and is duped into payment of the sum required. The object of the defendant was evidently to induce a belief that a competition actually existed for the possession of his good will: by this means he hoped to enhance the price of his assistance, which might otherwise have been held by plaintiff in less estimation, and would consequently be less productive than the defendant had promised himself, from the result of a scheme formed on the fullest knowledge of the character of those on whom it was to be practised, and justifying, therefore, all his expectations of success. These expectations appear to have been fully realized on one side, while the hopes of the other have terminated in disappointment and vexation. The suit on which the bribe was paid remains to this hour undecided; and the plaintiff has the mortification to reflect, that her interests have been impeded by those very means she made use of to ensure their advancement.

6. The next cause decided was instituted by Shankaba against Pootapah, for the recovery of two hundred rupees paid the defendant, in consequence of his having threatened to procure a decree against plaintiff, who was at this time sued in the civil court.

The evidence adduced establishes, that the plaintiff, under the supposition that the defendant was hostile to his interests, sent to him to solicit his assistance in a suit in which he (plaintiff) was then engaged, which assistance was

promised

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promised by defendant for the consideration of two hundred rupees. The fact of defendant's having threatened plaintiff is not substantiated by positive proof, but the payment of two hundred rupees, for the purpose of procuring defendant's assistance in the suit, is so fully established, that the amount has been decreed against him with the usual fines. The original suit for which the bribe was paid was withdrawn by petition from the person who preferred it; consequently, the merits of the cause were not discussed before the court: the interests of the present plaintiff therefore have not been promoted by the payment to defendant of the sum for the recovery of which the present suit was filed, and as the plaintiff appeared in court, and received notice of the withdrawing of the suit, and a copy of the court's order on the subject, he had ample opportunity of setting forth his grievances and of obtaining redress.

7. The next suit decided was instituted by Shivapa against Maudapah, for the recovery of one thousand rupees, paid by plaintiff to prevent his uncle from being carried to Mangalore, on a charge of being concerned with the banditti who had infested the upper country.

The plaintiff in his petition sets forth, that his uncle was threatened by defendant, and that the payment was partly made in consequence of such threats. The evidence adduced does not fully support the plaintiff in that assertion: it however establishes, that payment of the sum claimed was made to defendant, for the purpose of procuring the dismissal of the plaintiff's uncle, and the sum has therefore been awarded against the defendant, as also the fines denounced. The country above the ghauts had been frequently overrun with banditti, who emboldened by former success plundered the town of Sersi in December last, and murdered one of the revenue officers. I thought it necessary to proceed to the spot, and in my inquiries found strong reasons for suspecting that the plaintiff's uncle (an inhabitant of the Mysore country) had harboured the banditti, and had participated in the fruits of their predatory expeditions. I sent for him and detained him at the house of the head revenue officer, lest he should convey information of my arrival to the gang, and counteract my plans for their seizure, the success of which depended altogether upon the secrecy and dispatch with which they were executed. I detained him until my departure from the upper country, and finding that no positive proof of delinquency was forthcoming, I dismissed him, and addressed the resident of Mysore on the subject of his detention and of the suspicion I entertained of his guilt. It is necessary here to state, that the views of the plaintiff's uncle were in no manner forwarded by the transaction which forms the subject of the present suit: his detention was a measure of actual necessity, and his dismissal took place unsolicited by any person, when all hopes of procuring proof of his guilt had vanished, and when further restraint could no longer be justified by expediency, or attended with benefit to the cause on which I was engaged.

8. The next suit decided was instituted by Rachi, a dancing-girl, against Pootapah, for the recovery of Rupees 1,826 2, the amount of a bribe paid to the defendant for his assistance in procuring some property which had been sent to court by one of the Thannadars, as belonging to a person who had died intestate.

Property to a very considerable amount had been sent into court, and the plaintiff attended to set forth her claims. She presented a petition to this effect, and was ordered to attend and prove her right, and to produce security for the restitution of the property in question, in case any nearer claimant should appear; the security was given, the whole property delivered to her in my presence, and her receipt taken for the same. From the evidence adduced it appears that the plaintiff, previous to petitioning the court, applied to the defendant respecting these jewels, and that he demanded two-thirds of them as the price for his interference. The fact of the payment to defendant of part of the said property, valued at 1,280 rupees, being fully established, the amount was decreed against him, as also the penalty prescribed. The plaintiff remained at Onore for two or three months after the demand was first made by defendant, and refused to listen to his proposal. During this time she made no application to court, nor attempted in any manner to prosecute her claims: at length she was induced to comply with the defendant's demand, and agreeably

ably to the instructions she received from him at the final conclusion of the engagement, she appeared several times at court, conversed with me on the subject of these claims, but observed the most profound silence with respect to the extortion practised against her. This silence effectually prevented any interference in her behalf, and closed the only avenue which could lead to the discovery of the abuse and the punishment of the aggressor.

Madras Judicial Consultations, 4 Jan. 1814.

9. The next cause decided was instituted by Deooshitty against Pootapah, for the recovery of one hundred rupees given as a bribe to the defendant, for his interest in preventing the attendance of plaintiff at court.

The plaintiff had been summoned to court as an evidence in a suit then pending, and having been taken ill on the road, sent to the defendant, requesting that he would arrange so as to render attendance unnecessary, which defendant consented to do, on condition of plaintiff's paying him one hundred rupees. The evidence adduced establishes that this sum was paid to the defendant, and that he promised to procure the order in question : the amount was therefore decreed against defendant, as also the penalties laid down in the Regulation. The civil suit in which the plaintiff was summoned as a witness was not brought to a hearing before the court, but was adjusted amicably by the parties. Several of the witnesses who had been summoned had arrived at court, and were dismissed without being examined. In consequence of this adjustment, the plaintiff, whose name is in the list of witnesses summoned, did not make his appearance, and the witnesses depose that an order was issued by the court to dispense with his attendance : no such order is however to be found among the records.

10. The next cause decided was instituted by Ramknstnia against Pootapah, for the recovery of two hundred and eighty-three rupees, paid as a bribe to appease defendant, who had threatened to complain against the plaintiff and have him put into confinement, on a pretence that plaintiff had practised sorcery against him.

The evidence adduced in this suit establishes that the plaintiff was actually threatened in the manner therein described; that a demand of one thousand rupees, which was afterwards reduced to four hundred, was made by defendant, as the price of his assent to terms of accommodation and of his foregoing the execution of his threats; that two hundred and eighty-three rupees, in part payment of this latter sum, was delivered to defendant, who at the time of receiving the amount declared himself reconciled to plaintiff, and renounced all enmity and ill-will; the sum claimed was therefore decreed against the defendant, as also the fines laid down in the Regulation. This is another case of credulity which can hardly be reconciled. The plaintiff, from the earliest institution of the court to the period at which the bribes were paid, was in the constant habit of attending the court, and had been a principal in no less than fourteen suits, two of which only were at this time pending. His acquaintance with the Regulations of Government, and the general mode of court proceedings, renders his silence in a matter of such aggravated rapacity altogether unaccountable, and would challenge belief, if it stood an insulated instance of the infatuation which has prevailed among the inhabitants of this zillah.

11. The next cause decided was instituted by Shankapashitty against Pootapah, for the recovery of two hundred and ten rupees, paid the defendant as a bribe to induce him to desist from demanding an estate, the property of the plaintiff, which was immediately adjoining to one held in mortgage by defendant.

The evidence adduced in this suit is faulty as to the demand of defendant: it establishes, however, that two hundred rupees were paid him, and that he at the time of receiving the amount promised that he would refrain from again demanding the estate in question. The amount claimed was decreed against the defendant, as also the fines laid down in the Regulation. This suit furnishes one of the most aggravated instances of oppression that has been brought before the court, and evinces the depravity of the defendant in as great a degree as any complaint which had been preferred against him. The plaintiff was altogether unconnected with any business before the court, was unfortunate in having an estate adjoining defendant's, to maintain himself in possession of

Madras Judicial Consultations, 4 Jan. 1814.

of which he was obliged to make this sacrifice. His vicinity to Mangalore gave him every opportnnity of representing his grievances, and his omitting to do so prevented that interference which his injuries so loudly demanded, and that commiseration which the cruelty of the case so forcibly bespoke.

12. The next suit was instituted by Boloo against Pootapah, to recover one hundred rupees, paid to defendant for his promise to befriend the plaintiff in a suit in which he was engaged with a neighbour, for damages sustained in consequence of the removal of one of the enclosures belonging to plaintiff's estate.

The complaint sets forth that the defendant, on being consulted by plaintiff, recommended that he should institute a suit against his neighbour for a larger sum than fifty rupees (the amount at which the plaintiff originally estimated his damages), and that the defendant promised to procure a favourable decision, provided that the plaintiff would institute his suit for five hundred rupees, and consent to pay him one hundred rupees. The evidence, although not altogether conclusive as to the recommendation of defendant, or the particular mode in which the assistance was to be afforded, establishes the payment of the amount; the sum claimed therefore has been awarded against defendant, as also the payment of the fines laid down in the Regulations. The suit for which the bribe was paid was instituted for the recovery of fifty rupees, and was not withdrawn, as defendant is said to have recommended, but remains still undecided, although the bribe was paid fifteen months ago. The plaintiff resided within a few miles of the court, and had every opportunity of disclosing the extortion, which he omitted to do, in the hope, no doubt, that he should subsequently derive considerable benefit from the transaction in question.

13. The next cause which came on for trial was instituted by a commissioner, by name Shamia, against Pootapah, for the recovery of one hundred rupees, given as a bribe for obtaining orders for the payment of some fees due to the plaintiff on causes decided by him.

The complaint sets forth that the bribe was paid for procuring the reference of petty suits for plaintiff's decision, and for obtaining orders for the payment of some fees due on causes he had decided. The evidence adduced in this suit does not fully establish that the defendant threw any impediment in the way of plaintiff's receiving, in common with other Commissioners, a regular supply of suits for decision: it proves, however, that defendant did prevent, by private orders he gave to the officer entrusted with the payment of Commissioners' fees, the delivery of the amount due to the plaintiff on account of suits he had decided, and for the payment of which an order had been given by the court; the amount claimed was therefore decreed against the defendant, as also the fines denounced. It is necessary here to state, that an order of the court is regularly passed every month for the payment of the Commissioners' fees, immediately on the receipt of their reports of causes decided in the preceding month, and that this order is deposited as a voucher for the payment of such fees. In the present instance it had been regularly issued to the proper officer, and was superseded by the private instructions of the Sheristadar.

14. The next cause was instituted by Bapoo against Pootapah, for the recovery of fifty rupees, given as a bribe for obtaining leave to depart from court, where the plaintiff had been summoned as a witness in a magisterial case, and to prevent his being again summoned as an evidence in a civil suit.

From the evidence adduced in this suit, it appears that the plaintiff, after having deposed in a case in which he was summoned, applied to the defendant for permission to depart; that the defendant told him that if he departed then he would be obliged to attend again, as his evidence was required in a civil suit, and that the plaintiff, in order to prevent his being called in such suit, paid defendant the sum of fifty rupees. The delivery of the amount to the order of defendant is fully proved, and the sum claimed, as also the fine denounced in the Regulation, was decreed against the defendant. Here is another instance of abject submission, which it is difficult to account for. The plaintiff had been summoned, had delivered his evidence, and received an order from the court to return home the very day on which the cause wherein he deposed was decided. The intimidation of the defendant rendered this order useless,

useless, and induced the plaintiff to remain at Onore several days after he had been furnished with it, although at this time he had not been named as a witness in another suit, and had not any business whatever before the court.

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15. The next suit decided was instituted by Annapoy, one of the head merchants of Mangalore, against Pootapah, for the recovery of Rupees 2,260 paid to the defendant for his promise of procuring for the merchants an order to export their grain.

The evidence adduced in this suit is deficient as to the demand made by defendant. It establishes that plaintiff called upon the merchants, and that they entered into an agreement to deliver to defendant, through him, two pagodas for every corge of rice which they exported. Rupees 1,640 are proved to have been paid defendant by plaintiff on this account: the amount therefore was decreed against him, as also the fines. This suit stands conspicuous among all the cases which have been brought against these people, for the rapacious effrontery of one party and the blind infatuation of the other. The merchants of Mangalore were sent for by me, for the purpose of consulting on the practicability of withdrawing a prohibition which I had found it necessary to impose on the export of grain from this province, in consequence of an alarming scarcity which began to prevail; they accordingly attended, communicated their sentiments on the occasion, and urged their agreements in favour of the recal of these orders. This conversation, in which all the merchants of consequence joined, was carried on direct between them and myself, and led to an agreement that they should deposit for home consumption one morah of rice for every morah exported, and produce security, to the sum of twenty thousand rupees, that the markets of the province should be duly supplied for the remainder of the season, provided the prohibitory orders were removed. The ports were accordingly opened, the required security given by four of the head merchants, and a bond of indemnification taken by them from the inferior ones, to prevent any loss from the risk incurred. An arrangement was also entered into among themselves, that each should export according to the weight of responsibility he had consented to sustain; and to prevent collusion, the plaintiff (one of the principal and most opulent merchants of the place) was selected by the rest, to see that the conditions they had entered into among themselves were not violated, and to procure from me a particular order for every separate quantity they might wish to export. This order they expected would operate as a check against fraud; they requested, therefore, that I would consider it as indispensably necessary, before any rice could be allowed to leave the province, and that I would concert with the Collector of Customs for carrying the measure into immediate effect. The wishes of the merchants were attended to, and the plan they suggested immediately put into practice. The plaintiff, through whose application alone (according to the wishes of the whole body of merchants) the rice could possibly be exported, appears to have communicated to them the demands of defendant immediately on the final arrangement of the plan, and to have insisted on the payment of two pagodas per corge before he would apply for the required order. The merchants, rather than lose the opportunity which then offered of a favourable sale for their rice, agreed to this payment, to which they were most probably induced to yield their consent from the example set them by plaintiff, and his own ready compliance with the imposition. I know not how to account for this extraordinary act of folly. The defendant had no part whatever, either in the order of prohibition, which was issued by me, on the reports of my Register, when I was above the Ghauts, or on the recal of this order, which took place entirely on the representation of the merchants communicated direct to me. On my return to Mangalore, I met and consulted with the whole body of them several times before any final arrangement was determined upon, and afforded them every opportunity of communicating their sentiments and stating their objections. These interviews were more than sufficient to convince them of my desire to consult their interest, and secure them against impositions of every nature. Their perfect silence in a matter of such consequence is the more remarkable, when it is considered that their opulence and respectability gave them a distinction in society which few other natives enjoyed, and placed them beyond the reach of

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any machinations, which a disclosure of defendant's villanies or resistance to his demands might possibly have brought upon others of inferior station.

16. The next cause decided was instituted by Manjaurey against Pootapah, for the recovery of nine hundred and seventy-five rupees, one hundred and thirty-one of which were paid as a bribe to prevent his attendance at court as a witness, and eight hundred and forty-four rupees, value of ten corges of rice, extorted by defendant.

The evidence adduced establishes that the plaintiff was summoned as a witness in a civil suit, and that being ill he sent a bribe of sixty rupees to defendant to prevent attendance at court, which sum is proved to have been paid. The evidence further establishes, that the defendant procured from plaintiff, by means of intimidation, ten corges of rice, the produce of an estate which plaintiff held in mortgage. The proof on both these points was so clear, that the amount was decreed against defendant, as also the fines denounced. The cause on which the plaintiff was summoned as an evidence was settled by amicable adjustment, and an order was immediately sent to the witnesses (as is customary on all such occasions), informing them of the circumstance, and dispensing with their attendance. An order had been sent to prevent the attendance of the plaintiff previous to this adjustment, in consequence of an application having been made to court by the party at whose instance he had been summoned, stating his inability, from ill health, to attend, and requesting that his presence might be dispensed with. This was the order alluded to in the complaint, and which the defendant might have had art enough to make appear as having been obtained through his influence. The circumstances attending the demand and delivery of the rice are marked with features of cruelty and oppression, almost unexampled, even in the course of villany in which defendant was engaged. The plaintiff had an estate which he had received on mortgage for some years: on certain conditions the defendant cajoled him into relinquishing this estate, and not content with this act of extortion, insisted upon his making over the produce of the estate for the year before the transfer took place, and actually put a man over him, in order to induce his compliance; the rice was accordingly given, and the man withdrawn. The plaintiff in this suit is a Potail of a village situated within a few miles of Mangalore, and a man of great respectability and wealth: he has had frequent business at court, but preferred submitting to this act of oppression in silence, rather than make a disclosure which would have led to restitution of his property, and to the exposure of his unprincipled oppressor.

17. The next cause decided was instituted by Ooman against Pootapah, for the recovery of two hundred and thirty-two rupees paid as a bribe to obtain a favourable decree in a cause which the defendant had threatened to get decided against him.

A suit had been instituted in court against the plaintiff for the recovery of an estate and its produce, and the plaintiff applied to defendant for his assistance, and agreed to pay him two hundred and fifty rupees for a decision in his favour. The evidence adduced establishes that an agreement was entered into between plaintiff and defendant, in which the latter promised to get the former confirmed in the possession of the estate, the subject of the suit (and which plaintiff then enjoyed), and also to procure for him a share of the estate enjoyed by the person who had complained against him; that two hundred and thirty-two rupees was determined on as the sum for which the object was to be effected, and that the amount was accordingly paid by plaintiff to defendant in four different payments. The sum claimed was therefore decreed against defendant, as also the prescribed fines. The suit in which the bribe was paid was preferred by one relation against another, for an estate in which each had a right: it was settled by amicable adjustment. The consent of the plaintiff appears at first to have been withheld, and not indeed to have been obtained until the defendant assured him he must lose his cause if he refused to listen to this mode of adjustment. The plaintiff attended in court, declared his perfect assent to the agreement, and received a decree drawn out agreeable to the terms to which he himself had subscribed, without mentioning a word of the bribes he had paid, or of the disappointment his interests had suffered from the failure of the defendant's promise.

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The defendant in this suit declined summoning any witnesses.

18. The next cause decided was instituted by Divia Gowda against Pootapah, for the recovery of forty-four rupees paid as a bribe to obtain plaintiff's release on security from the Cutwall's choultry, and a speedy hearing of his case.

The plaintiff had been sent in from one of the thannahs, on a charge of having caused the death of a woman with whom he had lived. The brother of the defendant is represented as having instigated this complaint; but in the evidence adduced there is no proof whatever of this assertion. The witnesses establish the payment of the amount for the purpose set forth, and the sum was therefore adjudged against the defendant, as also the fines. The plaintiff in this suit was constantly brought to court with the other prisoners confined in the Cutwall's choultry, from the period of his arrival until his release, and had many opportunities of representing his ability to produce security for his appearance until a final hearing of his case. He made no application to this effect until about twenty days after the bribe had been paid to defendant, at which time the security was tendered and received. Three days after the plaintiff had obtained his release on security, the examination into the complaint against him was finished and declared groundless. The examination was conducted by myself in presence of the plaintiff, who had every opportunity of disclosing the circumstance, but studiously avoided the slightest mention of any demands which had been made against him.

The defendant in this suit declined summoning witnesses.

19. The next cause decided was instituted by Timia against Pootapah, for the recovery of Rupees 1,200, paid as a bribe to procure restitution of some property stolen from plaintiff's house, and to establish the guilt against those sent in on suspicion of having been concerned in the robbery.

The plaintiff's house had been robbed of property to a very large amount, and several persons had been sent into court on suspicion of being concerned in the theft. The plaintiff made application to defendant for his assistance in recovering the property, and defendant demanded the sum of five hundred pagodas, which was afterwards reduced to three hundred, for the promise of effecting his wishes. The evidence adduced establishes the demand of defendant for three hundred pagodas, his promise to recover the property for that consideration, and the delivery of the amount in three different payments; the sum claimed was therefore adjudged against him, as also the payment of the fines denounced. In the circumstance of this suit may be observed another instance of unaccountable credulity. The plaintiff accompanied those who were sent in on suspicion, and remained at Onore for about four months after the bribe was paid and the engagement entered into. During this time he had been present at several examinations of the prisoners, perceived that his property was not forthcoming, and that no circumstance had transpired either to confirm the suspicion originally entertained against those accused, or to encourage him in his hopes of success. During the interval of suspense his reliance on the promise of the defendant might have supported his hopes and induced his silence; but when he saw the prisoners released, was told by me that there were no grounds of suspicion against them, and recommended to return to his country and exert himself to recover the property and discover the perpetrators, what but a disclosure of all the villanies which had been practised against him, and a recital of all the cruel disappointment his interest had suffered, might have been expected from such accumulated injury and distress.

20. The next cause decided was instituted by Deaomally against Pootapah, for the recovery of two hundred and fifty rupees paid as a bribe to procure a favourable and speedy decision of a civil suit.

The plaintiff had instituted a suit in the civil court, and made application to defendant to procure for him a favourable and speedy decision. The defendant demanded four hundred rupees (which was afterwards reduced to two hundred and fifty) for his services, promising for that sum to effect the plaintiff's wishes. The evidence adduced in this cause establishes that the agreement set forth in

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the petition was entered into by defendant, that the payment of two hundred and fifty rupees was accordingly made to him, and that a promise of procuring an immediate decision was given by defendant at the time of receiving the amount; judgment was therefore pronounced in favour of plaintiff, and the fines denounced by Regulation decreed against defendant. The civil suit alluded to in the present case is the same as that mentioned in case No. 7. The plaintiffs in both of the present suits were plaintiff and defendant in that originally instituted, and in which the defendant Pootapah's interest was solicited by both parties. The original suit was adjusted amicably between the parties; but the evidence establishes that same demur was at first made by one of them, which could not be surmounted until the defendant assured the party who made objections that the cause would inevitably go against him if he persisted, and by that means obtained consent. They both appeared in Court, declared their perfect assent to the arrangement, and received an order, making the conditions they had themselves subscribed to a decree of court, which was read over and delivered to them in my presence. This is the only instance to be met with in the causes now before the court, wherein the interest of defendant had been solicited and disposed of to opposite parties in one suit, and affords a striking proof of the address the defendant must have been master of, to have enabled him to dupe contending parties, and to reconcile adverse interests to disappointment and miscarriage.

The defendant declined summoning any witnesses.

21. The next cause decided was instituted by Ramia and Coopia against Pootapah, for the recovery of six hundred and forty rupees paid as a bribe to obtain permission to depart from court.

A magisterial complaint had been preferred in court, in which the plaintiffs and others had been summoned as witnesses: their evidence had been delivered, and the persons complained against committed to take their trial before the circuit court. The plaintiffs in their petition assert, that the defendant on their applying to him for leave to depart, accused them of having deposed falsely, and refused his assent: an assertion corroborated by the evidence of one of the witnesses, who deposes that this intimidation was made use of by the defendant, when he waited upon him, at the instance of the plaintiffs, to adjust the terms on which their departure was to be permitted. The evidence adduced establishes the payment of the amount to defendant, and that when the amount was paid his permission was given them to depart: the sum was therefore awarded against defendant with the fines denounced. Of all the various suits preferred against the ministerial officers, none more fully evinces the complete ascendancy they enjoyed than the present. The plaintiffs are head-men of some districts above the Ghauts, in which the Aumildar had been accused of levying contributions on the inhabitants, under the plea of furnishing supplies for a detachment of troops then passing through that part of the country, and they (plaintiffs) were called upon to depose to these facts. The charge against the Aumildar was so far supported, that I committed him to take his trial before the circuit court, and desired the plaintiffs and the other witnesses in the cause to remain at Onore until the arrival of the circuit Judge, who at that time had announced his intention of holding a sessions, and was expected in the course of a few days. Many of the witnesses accordingly remained: some went back to their houses without my permission, and were scarce able to perform the journey and return in time to deliver their evidence before the circuit court. The plaintiffs were examined as evidences before this authority, the highest to which, from their situation, they could obtain personal access. They were examined before this court respecting an act committed by another, similar in its nature (although falling short in the degree of atrocity) to that which but a month before had been practised against themselves. They had seen that my time had been engrossed for five months by this examination, during which period no less than forty-seven witnesses had been examined in support of the charge; and if, with this proof of my solicitude to detect imposition, they could possibly allow themselves to doubt my disposition to punish their oppressors, the circuit court was open to receive their complaints, a court they well knew to possess authority for enquiring into all malpractices, and for punishing any public officer who had abused his trust. When these fair opportunities are neglected, and an

an abject silence on the subject of such recent and aggravated injuries still observed, where shall we look for information to direct our researches? how obtain the means of correcting abuse?

22. The next cause decided, was instituted by Ganapia Beged and Shivaramia against Pootapah, for the recovery of two thousand rupees paid as a bribe to obtain their release on security.

One of the plaintiffs in this suit, and the brother of the other, had been sent into court on a charge of having robbed their neighbours of property to a very large amount: they were confined, and applied to defendant to obtain their release on security. Two thousand rupees was determined on as the price of defendant's permission, and the amount was accordingly paid. The evidence adduced establishes that the application was made to the defendant, and that the amount claimed was delivered to him in two payments; a decree was therefore given against him for the amount, as also for the fines denounced by the Regulation. One of the plaintiffs in the present suit, and the brother of the other, are the people against whom the plaintiff in No. 19 had complained, and who were sent in on the charge he had preferred against them. They were confined (until their release on security) in a room of the court, and the inquiry into the charge of theft against them was conducted at different periods during an interval of four months, and terminated in the release of the whole party, the proof against them being altogether insufficient. Four of the prisoners, in which number one of the present plaintiffs and the brother of the other were included, were set at large on security, the suspicion against them having appeared on a summary inquiry much less than against the others. They were examined by myself, conversed with me several times before and after their release, and received the order of dismissal, without giving me any information on the subject of the present suit, or affording me reason for supposing that any improper demand had been made against them. The perpetrators of the robbery, of which the plaintiffs were accused, have since been apprehended by me in the Marhatta country, and have acknowledged the crime; the consciousness therefore of the plaintiff's innocence ought to have operated as a strong inducement for their opposing the demands of defendant, or at least for their disclosing such demands when their dismissal took place: a disclosure to which they were encouraged by the considerate treatment they met with during the interval of the examination, and the strict justice they received on the final decision of the suit.

23. The next cause which came on for trial was instituted by Ramannegeda and Buttea against Maudapah, for the recovery of eight hundred and sixty rupees paid as a bribe to obtain permission to depart from court.

A magisterial suit had been preferred in court, and the plaintiffs were witnesses summoned in support of the prosecution: they had delivered their evidence, and the party complained against had been committed. The plaintiffs being desirous to depart applied to defendant, who accused them of having withheld their evidence, and told them they could not be allowed to leave the court. After some further application on one side and demur on the other, the payment of eight hundred and sixty rupees was determined on as the price of the defendant's assent, and the amount was accordingly paid. The proof of the payment on this account being clear and circumstantial, judgment was given in favour of plaintiffs, and the prescribed fines decreed against defendant. This suit is exactly similar in substance to No. 21: the plaintiffs were summoned in the same magisterial cause mentioned in that number, and paid the bribe under the same circumstances and with the same views. It will not be necessary to enter into any further explanation, as the observations in the former case apply in all their force to the present suit.

24. The next cause decided was instituted by Ramana against Maudapah, for the recovery of one hundred and sixty rupees for obtaining permission for plaintiff's return to his village, whence he fled in consequence of a complaint having been preferred against him.

A complaint was preferred against plaintiff, accusing him of having received a large quantity of stolen property: he withdrew with his family to the jungles to

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to prevent being apprehended, and made application to defendant for leave to return. The plaintiff was apprized that he must at all events appear at court, but that for the payment of one hundred and sixty rupees his family might return to their village. The application to defendant, and the payment of the sum of one hundred and sixty rupees for the purpose above stated, is so fully established, that the sum has been decreed against him, as also the payment of the fines denounced. It was discovered that the plaintiff in this cause had disposed of some stolen property which was seized and sent to court. The plaintiff withdrew with all his family into the jungles on the approach of the police officers, and by this measure was enabled to elude their researches. He returned occasionally in a clandestine manner to his house, but has never since resided openly in his village, and could not therefore be apprehended or prosecuted upon the original complaint, which was preferred against him alone, without including any of his family. He left his place of concealment for the purpose of prosecuting the present suit, upon hearing that the ministerial servants were put under restraint, and that all who had suffered by their misconduct were required to come forward and represent their grievances.

25. The next cause which came on for trial was instituted by Bomia Shitty against Maudapah, for the recovery of two hundred rupees, being the amount of a bribe paid to prevent plaintiff and his wife from being put into the Cutwall's choultry.

A complaint was preferred in court against plaintiff, his wife, and his nephew, for having carried off a neighbour's property. The plaintiff asserts, that defendant intimidated him with threats that he would procure a summons for the apprehension of them all, and send them to the Cutwall's choultry, to prevent which the plaintiff settled with defendant for the payment of two hundred rupees. The fact of the intimidation is not substantiated, but the payment of the sum is fully proved, as also that defendant at the time of payment promised to expedite the adjustment of the cause: the sum was therefore decreed against defendant, as also the fines denounced in the Regulation. This is another suit which affords matter of astonishment. The plaintiff's avowed object was to prevent the issue of the particular summons ordered by the Regulations to be sent in criminal cases of a nature not bailable. The original complaint preferred against the plaintiff was not of a description to warrant the issue of such a summons, and consequently there was no grounds for his entertaining any apprehension on the occasion. The particular summons required by the nature of the case was issued in due course, and the examination into the suit has not as yet commenced, nor have any of the parties been apprehended. The plaintiff and his nephew reported their arrival at court, and the former represented that his wife was unwell and unable to attend; she was therefore directed to appoint a person to appear and answer for her. Such are the circumstances of this suit, on which, although the bribe is proved to have been given, it is impossible to discover how the interests of the person who paid it could be promoted by the transaction.

26. The next cause decided was instituted by Devanaick against Pootapah for the recovery of ninety-six rupees, being the amount due on two corges of rice taken by compulsion, after deducting one hundred and forty-four rupees received from defendant.

The complaint sets forth that the defendant sent for plaintiff, and required from him two corges of rice, at eighteen pagodas per corge, when rice was selling at thirty pagodas per corge; that the plaintiff objected to giving the rice at that price, and that defendant then frightened him, and told him that he was sure he had the rice, and that he would manage to get it; that the plaintiff, to prevent the defendant from carrying his threats into execution, consented to procure the rice, and received thirty-six pagodas as the price of two corges, which quantity was accordingly delivered at the time when the rice was selling at the rate of thirty pagodas per corge. The fact of defendant's having received, by means of threats, from plaintiff two corges of rice at eighteen pagodas per corge, at the time the rice was selling at thirty pagodas per corge, is fully proved by the evidence of the witness, and the amount, as also the fines, were decreed against defendant. The plaintiff in this suit was unconnected with any business

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at that time before the court. He is a revenue Potail, and resides within a few miles of Mangalore, his vicinity therefore to the court station gave him every opportunity of representing his grievances, and the public situation he held afforded him the means of making known his injuries to his immediate superiors, if any doubts could have arisen of my disposition to afford him redress. Notwithstanding these advantages, he observed the most perfect silence on the subject, and only came forward with his complaint after the detection of other abuses, and after the ministerial officers had been put under restraint.

27. The next cause decided was instituted by Soobia against Pootapah, for the recovery of two hundred rupees, paid as a bribe for procuring the defendant's assistance in some civil suits instituted by plaintiff.

The plaintiff, who had several suits pending in court, represents in his petition that the defendant sent word that his marriage had been very expensive, and demanded five hundred rupees, threatening, in the event of non-compliance, to get all the pending causes nonsuited, and that plaintiff, to prevent this, agreed to the payment of the sum of two hundred rupees. The proof adduced in this suit fully substantiate the payment of this amount, and that the defendant, prior to such payment, had threatened the plaintiff in the manner represented; the sum was accordingly decreed against the defendant, as also the fines denounced in the Regulation. The plaintiff in this suit, since the payment of the bribe in question, has had five suits adjusted in court, one of which was settled amicably by the parties, another withdrawn by himself, two more decided *ex parte*, in consequence of the adversaries omitting, after due notice, to attend, and the fifth decided after a full investigation in the plaintiff's favour, at a time when the defendant in this suit was at Goa for the recovery of his health. In none of these five suits has the interest of the plaintiff been in any way promoted by the influence of the defendant. During the trial of the last, the only occasion in which intrigue could possibly have been practised, the defendant was one hundred miles from the spot, and consequently unable to afford any assistance to the cause.

The defendant in this suit declined summoning any witnesses.

28. The next cause which came on for trial was instituted by Soobiabundary against Pootapah, for the recovery of four hundred rupees, being the value of rice taken by compulsion.

The complaint sets forth that defendant sent for plaintiff (a neighbouring Potail) and informed him that he wanted to purchase two estates in his village, which the plaintiff represented could not be procured; that the defendant then required ten corges of rice at fifteen or sixteen pagodas per corge, when rice was selling at twenty-six or twenty-seven pagodas, which plaintiff likewise informed the defendant could not be procured at that rate; that the defendant then frightened him, declaring that he knew full well that the plaintiff had plenty of rice, and that he (plaintiff) would manage to get it; that plaintiff, alarmed at the consequences that would result from defendant's displeasure, agreed to procure the rice at the price above-mentioned, which he accordingly did, and reported his having done so to the defendant, who then required that the rice should be sold, and the amount proceeds delivered to him; that the plaintiff accordingly sold the rice for four hundred rupees, at twenty-five pagodas per corge, and sent the amount to defendant. The payment of this sum, as also the fact stated in the complaint, having been fully proved, the amount was decreed against the defendant, as also the payment of the fines denounced. This suit more strongly pourtrays the native character than any other which has come before the court: it evinces that abuse of trust is not confined to any particular class of servants, but generally practised when an opportunity offers of promoting private interests at the expense of public integrity. The plaintiff, who resides immediately close to Mangalore, is a man of opulent circumstances, and had not any business whatever before the court. His wealth attracted the notice of the defendant, and induced him to make a demand, to avoid compliance with which he well knew the plaintiff would readily submit to any loss or inconvenience. The public situation the plaintiff held enabled him to practise towards others the same oppression which had been exercised upon himself, he therefore entered into a compromise with defendant

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for the delivery of the rice, and secured his own interest by apportioning the demand among the Ryots under him, from whom he collected the whole quantity, each contributing his quota according to the means he possessed. The distinction the plaintiff enjoyed from public office, and the vicinity of his residence to the court, might, it is natural to suppose, have guarded him against any attempt at oppression. These advantages, however, proved but a feeble barrier to the rapacity of defendant, and were rendered useless by the unprincipled conduct of the plaintiff, who transferred the injuries practised upon himself to others dependent on him, rather than maintain his own rights against attacks which his situation required him to resist, and his public trust called upon him to disclose. I shall consider it my duty to proceed against the plaintiff in this suit for the oppression he has been guilty of towards the Ryots.

The defendant declined summoning any witnesses in this suit.

29. The next cause decided was instituted by Apoobunga and Kantoobunga against Maudapah, for the recovery of three hundred rupees paid as a bribe to obtain their release on security from the Cutwall's choultry.

The plaintiffs were sent to the Cutwall's choultry on charges of robbery, and settled with defendant for the payment of three hundred rupees for their release on security, which accordingly took place. The evidence adduced establishes that the payment was made for this purpose, and the sum was decreed against defendant, as also the fines denounced. The two plaintiffs in this suit had charged each other with robbery: the one had preferred his complaint to a Thannadar, and the other on hearing of the circumstance left his village and repaired to court with a counter-charge against the person who had complained at the Thannah. On their appearing in court each persisted in his charge against the other, and they were so violent in their accusation, and so deaf to every recommendation of amicable adjustment, that they were sent to the Cutwall's choultry until they could procure security for their appearance. They remained under restraint three or four days, and then produced the security. They afterwards adjusted the suit amicably, presented their raszeenamahs to me in court, and represented that they had no further grounds of dissatisfaction with each other. They signed these papers in my presence, and were particularly admonished by me, at the time of their dismissal, to live on terms of amity, and to refrain from feuds, so hostile to their interests and so disgraceful to their characters. They acknowledged their error, and gave promises of peaceable demeanor in future, but were altogether silent on the subject of the imposition practised against them.

30. The next cause decided was instituted by Venkanah against Pootapah, for the recovery of one hundred and sixty-four rupees paid as a bribe for procuring the defendant's assistance in a magisterial complaint.

The plaintiff had been sent into court in consequence of a complaint having been preferred against him: he waited on the defendant, and settled with him for the payment of two hundred rupees, for which sum the defendant promised to get his suit settled. The payment of this sum, and the promise are fully proved to have taken place; the amount therefore, and also the fines, were decreed against the defendant. The plaintiff in this suit had been complained against to the Thannadar, who proceeded to apprehend him. Some opposition was experienced in the attempt, but the plaintiff was at length secured and sent into court, where he was released on security, and in about a month after paid to the defendant the bribes now the subject of the present suit. The original suit against the plaintiff was found litigious, and the complainants fined for preferring it: the plaintiff had a full opportunity, therefore, of representing his grievances, but allowed it to pass unnoticed. The defendant declined summoning any witnesses in this suit.

31. The next suit decided was instituted by Narnapah, one of the Commissioners, against Pootapah, for the recovery of four hundred and twenty rupees paid as a bribe to obtain permission to depart from court.

The plaintiff was sent to court by one of the Thannadars, in consequence of a complaint against him. The petition sets forth that he applied to the defendant for leave to depart home, which the defendant refused, and threatened to have

have the plaintiff sent to jail, on the plea that he had committed various acts of violence in the district in which he exercised his duties as Commissioner. The evidence adduced does not substantiate that the defendant made use of intimidation, but it establishes that the sum claimed was paid to him for the purpose of obtaining leave for plaintiff to depart, and that defendant, at the time of receiving the money, promised to procure such leave: the sum was therefore decreed against him, as also the fines denounced. This is a cause respecting which there is a considerable degree of mystery. The plaintiff was evidently sent from the town in which he acted as Commissioner under restraint, but he was not delivered over to the officer in charge of the choultry or confined at Onore, nor was his arrival reported. On being questioned, he asserts that he was carried direct to the house of Maudapah, one of the head ministerial officers, and there delivered over, but that he knows not the Peons in whose custody he was brought. The police officer who sent him in asserts, that he represented the plaintiff's conduct to court, and received an order for his apprehension; but after a diligent search among the records of the court, the representation said to have been made has not been found, nor can the original order, or any copy of it, be met with. The evidence of one of the witnesses also furnishes some grounds for doubting this assertion: he declares, that he was told by the defendant to prefer a suit against the plaintiff, in order to procure his attendance at Onore, as he (plaintiff) had contributed nothing to the defendant's expenses, and had never come near him. This witness further states, that on his omitting to attend in time to make this complaint, the defendant informed him that he had managed to rectify the omission, by procuring a summons for the attendance of the plaintiff in a civil suit. Whatever might have been the merits of the case, the character of the plaintiff since his appointment of Commissioner seems highly exceptionable; but this cannot plead in extenuation of the defendant's conduct, which appears to have been equally culpable in this as in other suits which have been brought before me. The plaintiff remained at Onore for some months, and had daily opportunities of making known his grievances.

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32. The next cause decided was instituted by the same Commissioner against Maudapah, for the recovery of four hundred rupees for the same purpose.

The proof in this suit was equally strong as that in the last, and judgment was therefore pronounced against the defendant for the sum claimed, as also for the fines denounced in the Regulation. The observation in the last suit being equally applicable to the present, it is unnecessary to enter into further particulars.

33. The next cause decided was instituted by Vittopa against Pootapah, for the recovery of Rupees 2,376, paid as a bribe on account of some Ryots of Bilghi, in order to prevent their being apprehended on a charge of having supported the Bilghi Poligar.

The complaint sets forth that the Ryots and others, alarmed at the apprehension of some of the inhabitants for aiding and assisting the Poligar of Bilghi, sent the plaintiff to defendant to request his interference; that the defendant promised to assist them provided they would pay him four thousand rupees, which sum was afterwards reduced to Rupees 2,376, and was to be paid part in cardamoms and the remainder sent to Onore in cash. The evidence adduced establishes the delivery of sixty maunds of cardamoms on this account, and four hundred and fifty-six rupees; the sum was therefore decreed against the defendant, with the fines denounced. Here is another instance of the complete ascendancy the defendant enjoyed over the minds of the inhabitants. I had found it necessary to proceed to Belghi in search of the proscribed Poligar, who had secretly erected a wooden fort in the Bilghi jungles, and had commenced the levy of contribution from all classes of the inhabitants. On my arrival at Bilghi I found that several of the head people had afforded shelter to the Poligar, and had made themselves the means by which he effected his purposes. I apprehended several, some of whom I brought to trial before the circuit court, and dismissed others for want of the necessary proof of their delinquency. The persons who paid these bribes are among the number so released. They solicited the interference of the defendant, and obtained his promise of assistance, on the condition of their paying the sum now claimed, which

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which condition they punctually fulfilled, although it is impossible to discover how the defendant performed his part of the agreement, or rendered the stipulated assistance. The inquiry was conducted altogether by myself, and the persons who had paid the bribes were brought frequently before me. I examined them several days, and being satisfied of their innocence I released them, with admonitions to avoid all connection with the secret enemies of Government, and directed them to co-operate with the police in maintaining the peace of the district. The two plaintiffs were revenue servants, and the head men of that district. They attended me the whole time of my stay in Bilghi, and even accompanied me to the limits of their district on my return towards Onore. I had several private conversations with them on the subject of the Poligar, and the assistance afforded him by the Ryots, but they never mentioned a word respecting defendant's demands, or the imposition to which the inhabitants had submitted.

34. The next cause decided was instituted by Annapoy against Maudapah, for the recovery of Rupees 1,560, paid as a bribe to prevent the attendance of some witnesses who had been summoned in a magisterial complaint.

The defendant admitted the payment of the amount, and attempted to establish that it was made on a different account than that set forth in the petition, an attempt in which he altogether failed. The evidence adduced in this suit, although not altogether positive as to the particular purpose for which the payment was made, was so circumstantial and strong, that I considered it my duty to adjudge the amount against the defendant with the several fines. The original magisterial complaint (in which those who had paid the bribes through the present plaintiff to defendant had been summoned as witnesses) was preferred by four people, the heads of one caste, against several others the heads of another, for assaulting their Gooroo in the execution of his duty, and pulling him out of his palanquin. Several witnesses were summoned on both sides, and orders were sent for their attendance. Of the four complainants three omitted to attend, although their presence had been frequently required, and a period of some months had elapsed since the complaint had been preferred; the original cause was therefore dismissed, and the complainant in attendance directed to prefer a complaint, in his own name, for the injury he had sustained, which was accordingly done. On the dismissal of this complaint the witnesses who had been summoned were apprized of the circumstance, and informed that their attendance at that period was unnecessary: and as no report had been made me of the arrival of any of them at Onore, I concluded that the counter-orders had reached them in time to prevent their attendance. It appears, however, from the evidence in this suit, that some few had arrived at Onore during the time that the court was adjourned, and after settling with the defendant, had returned home again without appearing at court. These witnesses were all men of opulent circumstances. Most of them were summoned by one of the parties complained against, and as this person has absconded there is reason for supposing that they were summoned in concert with defendant. Several of them have often attended at court on various occasions since the above payment was made, and have conversed with me frequently on different subjects: they never mentioned a word of the payment, the subject of this suit, nor had I any information of the matter before the institution of the present inquiry.

35. The next cause decided was instituted by Timia against Maudapah, for the recovery of two hundred and twelve rupees paid as a bribe to procure a speedy dismissal from court, where plaintiff had attended in consequence of a complaint preferred against him.

A complaint had been preferred against the plaintiff in the magisterial court, to expedite which he paid the present bribe. The evidence adduced in this suit establishes the delivery of two hundred rupees to defendant, in two payments, one of eighty rupees and the other of one hundred and twenty rupees, and that he promised on both these occasions to expedite the departure of plaintiff. The sum was therefore decreed against defendant with the fines denounced. The plaintiff is a Revenue Potail, was sent in on a charge of assault which on inquiry was found litigious. The party preferring the complaint

plaint was fined in the presence of the plaintiff, who notwithstanding remained perfectly silent on the subject of this abuse. The defendant in this suit declined summoning any witnesses.

36. The next cause decided was instituted by Sooba Alva against Pootapah, for the recovery of four hundred rupees paid as a bribe to expedite a civil suit.

The plaintiff had instituted a civil suit for the recovery of an estate and its produce. The complaint sets forth, that the plaintiff spoke to defendant on the subject of expediting the civil suit in which he was engaged, and that defendant required four hundred rupees, for which he promised to do so. The evidence adduced establishes the payment of the above sum for the purpose declared: the amount was therefore decreed against defendant with the fines denounced. The original suit instituted by plaintiff was withdrawn by him after payment of the bribe. The plaintiff attended himself at court, presented a petition for withdrawing his suit, and received an order of the court to that effect, which was read over and delivered to him in my presence. He was silent as to the extortion practised against him, and although he has frequently attended at court since the transaction, he has never mentioned a syllable which could lead to a suspicion that he had been so grossly imposed upon.

Such is the nature of the causes decided against the ministerial officers of this court, an attentive perusal of which will, I trust, establish, that great as the abuse has been, it has derived no support from any real influence these men possessed in public matters, and secured no advantages to those who sought their favour incompatible with the interest of public justice. These causes have all been appealed, in strict execution of the menaces held out by the defendant at the commencement of the inquiries, and a still further reference to the Sudder court is publicly threatened in all cases wherein the judgment of this court shall be confirmed by the sentence of the superior. It will be necessary now to advert to the principal objects for which the bribes were given in matters connected with public business, and to detail the precautionary measures adopted with respect to these objects, in order that his Excellency the Governor in Council may judge whether the late abuses have received encouragement from any neglect of mine, or whether I have been in any manner remiss in my endeavours to ensure to the inhabitants of this zillah the fullest advantages of the beneficent intentions of their rulers, and to the Government the conscientious discharge of all the duties entrusted to their servants. These objects appear to be,

1st. The procuring a speedy inquiry into certain suits and decisions favourable to particular interests.

2d. The procuring for witnesses an exemption from attendance or a speedy dismissal from court.

3d. The procuring for persons sent in on magisterial charges their enlargement on security, until their cases could be brought on in due course.

With respect to the first of these objects, viz. a speedy inquiry into certain suits and decisions favourable to particular interests, an examination into the result of those causes in which the bribes were paid on this account will establish that, in no single instance, have the promises been fulfilled on the one side, or the hopes which have been excited realized on the other. All the suits, as far as possible, have been brought on for trial in due course, and have either been adjusted amicably by the parties, withdrawn by those who instituted them, or remain on the file still undecided, although a long time has elapsed since the bribes were paid, since the promise of interference was given, and since the period for the fulfilment of that promise has expired. It only remains, therefore, for me to mention the measures which have been adopted to prevent abuse, and to ensure the inquiry into civil suits according to priority of date. A general file book was kept, in which every suit was entered as it was received. Against each suit the dates of every proceeding were noticed in columns for the purpose, and

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and a mark * was affixed to each number, by which the particular stage of the inquiry might be instantly ascertained. This book I referred to every three or four days, and was enabled to discover at first sight whether any cause had been brought on out of due course, and to ascertain the reasons which existed for deviating from the general custom. The Nazir, attended sometimes by the Sheristadar and sometimes by the pleaders employed, reported every day, on my arrival at court, the number of witnesses or parties in suits who had arrived the day before; the particular suits in which the whole of the witnesses summoned were in attendance; those in which part only had arrived, and which were necessarily at a stand until the arrival of the rest, unless the parties had expressed to him a desire that the merits of their claims should be determined by the evidence then in attendance, in which case such circumstance was included in his report; and also any other matter connected with the suits which had been officially brought to his knowledge. These reports were sometimes entered in the proceedings, and the examination of the cases always proceeded according to priority of number, unless in particular instances, when, from the number of witnesses in one cause and lateness of the hour, it was found impossible to finish the inquiry at that particular sitting, in which case, to prevent the possibility of the witnesses being tutored, the inquiry was altogether deferred until the next morning. The examination of witnesses was generally conducted by myself. Sometimes it was entrusted to the head servants, when my time happened to be engrossed with other business: in all such cases the parties or their Vakeels were invariably present, and the examinations so taken were read over and signed in my presence, as well by the person deposing as by the principals or their pleaders in the suit. The decrees were drawn out as soon after the conclusion of the examination as the general business of the court would admit, read, and delivered to the parties in open court, and put in course of execution immediately on application for that purpose. The Collector was always called upon to dispose of real property when such measure was necessary in satisfaction of decrees, and the Commissioner to dispose of personal, when the proceeds from the latter were considered insufficient to answer the demands. In cases of amicable adjustment, the parties were required to file petitions, specifying the particular conditions on which the suit was to be adjusted; and to prevent the possibility of misconception or abuse, they were called upon to declare in open court their perfect consent to such conditions, and to sign such declaration in my proceedings, before they could be made an order of the court. In cases wherein a party was desirous of withdrawing a suit, he was obliged to present a petition to that effect, stating his reasons for the measure. His adversary, if in attendance, or his Vakeel if he had appointed one, was furnished with an order, specifying the wish of the person withdrawing, which was read in open court, and delivered with my signature to each of the parties in the suit. Such were the rules which obtained with respect to the trial and adjustment of all civil suits brought before the court.

With respect to the second consideration for which bribes have been paid, viz. the procuring for witnesses an exemption from attendance or an early dismissal from court, an examination into those cases in which money has been paid on this account will establish, that in all instances wherein the defendants are said to have effected either of these points, the parties themselves, at whose desire such witnesses have been summoned, have dispensed with their attendance, or their presence has been counter-ordered direct by the court, in consequence of the business in which they were required having been adjusted without them. The decided cases prove, indeed, that in one instance a bribe was paid, not for the removal of any obstacle opposed to the departure of the witness by the common business of the court, but for extricating himself from difficulties purposely thrown in his way by defendant, who intimidated him, when on the eve of departure, with menaces of being again summoned as a witness in some other suits, and by this stratagem induced him to forego the use of the permission

* Witnesses sent for and documents received.	Witnesses arrived, examination commenced.	Examination finished.	Decree passed.
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sion he had received for his departure, and to listen to the illegal demands made against him. The arrangements which prevailed with respect to the dismissal of witnesses, and the causes which rendered the introduction of these arrangements necessary, are simply these. On the first institution of the court, much inconvenience and delay was experienced from the departure of witnesses without having obtained permission for that purpose. It sometimes occurred that they disappeared before their evidence was taken, and without previous notice of their intention; at other times it happened that they had been summoned in a magisterial as well as a civil case, or probably in different civil suits, and had returned home immediately on the delivery of their evidence in one of these suits. The inquiry into the remainder was necessarily deferred until re-attendance could be procured, which from the great extent of the zillah could not often be effected without much trouble and considerable delay. To obviate this inconvenience, it was found necessary that each witness should be furnished with a chit from the Nazir, to enable him to leave the court, and the Nazir was instructed to ascertain, previous to giving this chit, that the business on which the witness had attended was completed, and that he had no other duties to detain him at court. The witnesses frequently applied direct to me, and got immediate instructions for their dismissal: sometimes they applied to the Nazir, who made the necessary inquiries and complied with their requests; at other times they brought certificates from the pleaders employed in the cause in which they had deposed, which was sufficient to procure for them the necessary order for their departure. These were the arrangements which existed in this respect, and all abuse of these arrangements was considered amply guarded against, by the facility with which the parties could at all times make application to myself and obtain redress.

The third consideration for which bribes have been paid, viz. for procuring for persons sent in on magisterial charges their enlargement on security until their causes could be brought on in due course, appears to have proved more lucrative than any other. It will be necessary here to state the reasons for taking security in petty magisterial causes, and then to detail the arrangements under which this measure, as well as all others connected with the business in that department, were conducted. The constant press of magisterial business rendered it impossible that the cases should be commenced upon immediately on the complaints being preferred, or that evidence could be taken immediately on the arrival of the persons accused: each succeeding month added to the arrears of business in this department, and it generally happened that two, three, and even four months intervened between the date of the complaint and the period of the decision. This accumulation of business, which every exertion on the part of the magistrate was unable to prevent, would have proved highly prejudicial to the interests of those sent in on petty charges, and a powerful engine in the hands of the litigious, if a rigid confinement had in all cases been insisted upon until a final decision could be passed in regular routine. To prevent this evil, I invariably allowed all who were charged with trifling crimes to produce security, as it was called, but which merely consisted in procuring a man of respectability to undertake that the person complained of should be forthcoming when the charge on which he was sent in was about to be investigated; and as no penalty was attached to a failure in this engagement, no difficulty was apprehended, or indeed experienced, in procuring men of character to come forward on such occasions. I was induced to adopt this measure from other considerations of almost equal moment. The prisoners sent in were so numerous, that I had neither accommodation to lodge them or Peons sufficient to attend them; besides, by allowing them to be at large until the case was brought on in due course, I avoided incurring the expense of their subsistence, which consideration alone would have rendered the measure one of strict necessity, if the rights of the subject had not been materially consulted by the arrangement. The general arrangements for the conduct of the magisterial duties were formed with the same degree of attention as those which had obtained in the civil department. A blank paper was pasted to the wall of the court, on which any person desirous of preferring a complaint, or of representing any official matter, might at all times affix his signature. Complaints preferred direct to court were given in and sworn to in my presence: the parties complained against were duly summoned, and their confession or denial of the act

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act taken at the time of their arrival. The witnesses were summoned as the business of the court permitted, and the examination of the case proceeded, as far as possible, in regular turn. All prisoners sent in from the districts were carried on the day of their arrival to the Cutwall's choultry: the next morning they were brought with the rest of the prisoners to court by the Duffadar in charge of the choultry, who reported every morning the number of prisoners who had arrived the day before, the crime alleged against them and the place from which they had come, the total number of prisoners under his charge, the state of their health, and generally any matters connected with them. All these prisoners were constantly brought to court every morning, and remained there during the whole time the court was sitting. By these means they had in all petty causes an opportunity of meeting with their friends, and of adjusting amicably, through their interference, any trifling differences; and if reconciliation was hopeless, they had an opportunity of arranging for their liberation on security, until a final decision could be passed on their cases. The head magisterial servant reported every morning the number of witnesses who had arrived the day before, the number in attendance in different causes, and those cases which were ready for final examination; and that the inquiry might proceed as far as possible agreeably to priority of date, I have always kept a tablet on my desk, on which the names of all the prisoners whose causes were undecided, the crimes alleged against them, and the particular date of their arrival at court, were regularly entered. The names of the prisoners were expunged from this tablet as their causes were decided, and a fresh one prepared each month, to which I constantly referred, and satisfied myself that where instances occurred of cases being brought on out of turn, there was just and ample reason to justify the deviation. All confessions or examinations were read over to the parties, and signed in my presence. The prisoners against whom sufficient proof was forthcoming of charges cognizable only by the circuit court, were committed when the examination was closed, and they were removed immediately from the Cutwall's choultry to the general prison: recognizances were at the same time taken from the prosecutor and witnesses for their attendance before the circuit court, after which they were instantly dismissed. In petty cases the sentence was pronounced before all the parties, when the whole of the evidence had been received, and the prosecutor and witnesses immediately discharged. All amicable adjustments were received without regard to priority of number. Whenever the parties had come to an agreement, each presented a separate paper assenting to that mode of decision, which was read to them, and signed in my presence. All papers, of every description whatever, taken in this department, were invariably read over to the parties and signed in my presence, and it was impossible that any person who had complained against another, that any who had attended to give evidence in such matters, could leave the court without appearing before me and signing the document containing his deposition or examination; consequently no abuse could have been practised against any, without their having had the fullest opportunity of disclosing the grievance. If the precautions of a public nature were adopted with every solicitude, those out of office will likewise be found to have received every possible attention. A knowledge of all the languages currently spoken in the zillah enabled me to converse with any description of persons desirous of communicating with me, and I always encouraged such communications when properly sought for. In my general intercourse with the natives I studiously avoided every thing which had the appearance of austerity, and thought it as much for the interests of Government as I found it congenial to my own feelings, to establish their ascendancy in the affections, rather than in the fears of their Canarese subjects. Such were the precautions which prevailed in my zillah, which although calculated in their general operation for the attainment of the end in view, were still found to depend, in some degree, on co-operating causes for complete success. Some assistance was expected from the inhabitant in a disposition to disclose his injuries and maintain his rights, and some security for honesty in the servant was looked for in the usual incentives to rectitude of conduct, strengthened by the sacred obligations of his oath. This assistance was altogether withheld, and the looked-for security proved altogether delusive. The decided cases establish that attacks against the dearest rights were made by the one party, and that an abject surrender of

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every privilege was yielded by the other; that extortion was not confined in its practice against those only who had business before the court, but that it was extended, under every form and aggravation which rapacious avarice would devise, against all whose opulence attracted notice, all whose possessions rendered them fit objects for such infamous designs. This is fuly exemplified in the late inquiries, in which it appeared that lands were taken from some, and grain from others, who had no business whatever before the court, and that contributions were even made by merchants residing immediately at the station of the court, who at the time of making these contributions were in habits of daily converse with me, and who, of all others, were known to be above such attacks. When these instances of ascendancy among people of distinction in concerns of a private nature are considered, it will cease to be a matter of astonishment, that the lower class should have entertained a belief that the influence of the head servants was extensive, and such as to control all matters in which they had concern. This pernicious ascendancy (the effects of which have been severely felt in the difficulties with which the court has had to struggle in their late inquiries) is not to be accounted for on any common principles; nor can the profound silence which has prevailed under these aggravated acts of oppression be easily reconciled to reason. One of the causes which has operated to effect this silence is undoubtedly to be found in the conviction which those who paid the bribes must have entertained of the illegality of their own proceedings (in purchasing the avowed interest of a public servant, who they well knew was bound by the strictest obligation of an oath from the exercise of partiality in any public matter), and of the consequent risk to which their interests would be exposed from a disclosure of such unauthorized conduct. Another cause is to be discovered in the general impression which the universal venality prevalent among the servants of all former governments must have made upon the minds of the inhabitants of this province. This impression received in early youth, and confirmed by the sad experience of ages, has occasioned acts of oppression, which in other countries would have been viewed with jealousy, and resented as dangerous innovations, to pass unnoticed in this, and to be considered as evils which (although not authorized by any) were inherent in all governments, and which the observation of themselves, as well as those who had gone before them, had convinced them were inseparable from all political institutions. These are the natural sentiments of an inoffensive race of people, accustomed from their infancy to acts of despotism; sentiments peculiarly befitting the abject character of the Canarese, and which have contributed, in a very material degree, to the upholding of the late unhappy conduct of the court servants. Another cause to which the success of the late villanies may with justice be attributed, is the blind attachment and devotion which these artful men have managed to create among every description of servants at all connected with the establishment of the court. We can be at no loss to account for the origin of this attachment, or the strength of this devotion, when we consider that one common interest united all concerned, and disposed them most cordially to unanimity and support. The first description of servants of whom it will be necessary to speak, as particularly supporting this system and particularly bound to an opposite conduct, are the pleaders and Gomastahs employed immediately in court, not one of whom, from the highest to the lowest, could have been ignorant of the iniquities, or could have possibly been prevailed upon to observe so profound a silence, without some powerful inducement to insure their connivance. Against some of these people, complaints had been preferred, which were given up when the causes were transferred to the civil court, no doubt in consequence of the obstacles opposed to substantiating their claims; and the heavy risks to be incurred in case of failure. I feel so perfectly convinced of the impossibility that these servants could have remained in ignorance of the late transactions, that I consider it my duty to urge, in the most solemn manner, the dismissal of every one. The strong grounds which exist for suspecting that they participated in the profits of the head servants, and the certainty that, by their silence, they connived at these practices, are ample reasons for their removal from situations where purity of character and integrity of conduct are eminently essential. The example which will be afforded by this act of justice loudly demands its adoption: it will be found to operate as a powerful incentive to a conscientious discharge of duty, and as a check to all future attempts at dishonesty or collusion.

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Another description of public servants from whom the head-men have derived the most active assistance and support, are the Commissioners for the trial and decision of civil suits. The system of iniquity originally planned at the station of the court, and no doubt introduced with the utmost caution and distrust, but for the support of the Commissioners must have been necessarily confined to its immediate environs, and practised under every risk of detection, which an anxious wish to discover abuse, and an easy access to complaints would have at all times threatened. These dangers were no doubt adverted to, and were powerful arguments for the removal of the practice to as great a distance as possible, that the chance of personal observation might be lessened while the profits of extended practice might be obtained. Nor would the dangers be proportionably increased by this extension, as at the first glance might naturally be supposed. The particular habits of the people, their insuperable aversion to leaving home, and the influence of the Commissioner who superintended the system up the country, were safeguards against combined complaints, while the vigilance of the ministerial officers at head-quarters soon made them acquainted with particular instances of dissatisfaction, and enabled them to use their utmost exertions to avert the threatened danger, and to deter the malcontent from disclosing his grievances. Of this vigilance we have a lamentable proof, in the certainty that several persons had arrived at Onore, in order to prefer complaints of a serious nature against the relations of these men, but were prevented from appearing in court by the intrigues and artifices practised against them. The Commissioners had many inducements to urge their engaging warmly in the cause: the great increase of their own influence, and the probable chance of impunity they secured to their own malpractices by the obligations they conferred on the head-men, were forcible motives for prompting their services, and ample security for their concealment and fidelity. We accordingly find these servants the principal supporters of the system, the chief instruments by which the head-men effected their wicked purposes. I beg leave to recommend, that all the servants at present holding the office of Commissioners may be removed from their situations. The active part they have all taken in the late villanies render them unfit for the high and important duties they are called upon to perform. The late inquiries having been conducted in the civil court, many acts which are beginning to shew themselves under the former mode of trial have not now been fully brought to light: enough, however, has still appeared, to warrant the assertion that all the Commissioners have been privy to the late transactions, and have contributed, in a great degree, towards upholding the system of villany which has for so long a period been practised with success. In a former letter I had the honour to announce my intention of pointing out what appeared to me palpable objections to the appointment of these officers, under the rules and regulations which now obtain. I take this opportunity of urging these objections, and trust that they will be received as the suggestions of a person lately employed in an arduous investigation, during the course of which he has had ample opportunities of appreciating the evils he is now anxious to remedy. The first objection is the peculiar nature of their emoluments, and the sources from which these emoluments are drawn. At present they are made entirely to depend upon the spirit of litigation which prevails in their respective jurisdictions; it becomes, therefore, an object of serious moment to introduce this spirit where it does not exist, and to keep it alive when it commences to fail. Their receipts depending on the number of causes referred to them for decision, no means are left untried to supply the file with a constant succession of suits. Claims long since become antiquated have been received in the absence of more recent matter, and when these have failed, no doubt recourse has been had to fraud and invention to set up demands, which whether just or otherwise, must in either case enrich the Commissioner and support him in office. The means of effecting all this, if not immediately derived from, are undoubtedly greatly assisted by that provision of the Regulation, which requires that the jurisdiction of each Commissioner should be confined to that district in which his possessions are situated, in which indeed (as is the general case in Canara) he has probably resided from his earliest infancy. This residence gives him an influence among the higher class of inhabitants, and confers a considerable degree of controul over the lower order; it creates a general interest in every occurrence, and some

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some particular feeling or consideration towards every person, and when the means of promoting the one or of gratifying the other are within reach (which by the nature of the public situation is unfortunately too often the case), no checks will, I fear, deter from abuse, no penalties will be found a sufficient guard against the infirmities of nature. If private interests should be found rather injured than advanced by this institution, I am extremely apprehensive that it will be in vain to look for any counterbalancing benefit to those of the public. The Canara file affords abundant proof of the evils to which the institution is subject. Petty suits, which previous to the appointment of these officers were comparatively few, increased considerably on their introduction, while the subject of these suits became daily more and more objectionable: circumstances which clearly evince that the public interests have been impeded by those means which were considered calculated to effect their advancement. The above objections are possibly applicable to every zillah in which the appointment of Commissioners is introduced, and even these, weignty as they undoubtedly are, may not be found the only ones to which the system is liable. The great influence these officers possess, enables them to commit many irregularities and oppressions, which in so extensive a zillah, the small establishment of police and other officers cannot become acquainted with, even if they should be disposed to exert themselves to this end. The oppressions which have already been discovered consist in their compelling the lower class of people to work in all kind of ways without remunerating them for their labour, and in beating and confining them if they make any opposition or remonstrance; in their forcibly possessing themselves of the estates of the higher, and extorting from them the necessaries of life, and other commodities, at an inferior price than that the article bears in the market. These are the irregularities practised in their private capacity, and which undoubtedly owe their success to the influence derived from the public situations these officers enjoy. It is true that a representation of these circumstances would have always ensured the sufferers redress; and all with whom I have conversed have declared themselves perfectly sensible of that fact, but none have been found willing to proceed any distance to effect this object. The expense and personal inconvenience attending such complaint is adverted to, and apprehended (more than the continuance of the original evil) by a set of men, who with a few exceptions have never left their talook, and whose peregrinations have seldom extended beyond a few miles of the very house in which they were born. The police officers and court Peons have likewise contributed in a material degree to the support of the late system; their good-will and connivance was necessary in almost every act, and was insured by occasional trifling loans of money, and the exercise of other petty good offices which the head men found their interest in shewing them. The whole of these officers, also, must of necessity be dismissed, in order, by example, to secure a more faithful discharge of duty in future.

Having enumerated the description of officers who were principally concerned in the late iniquities, and adverted to the causes which have contributed to its support, I consider it now my duty humbly to point out one remaining cause, which as it probably first induced the ministerial officers to swerve from their duty, may be considered as having led to the commission of every subsequent outrage and oppression. I allude to the comparatively trifling salaries prevailing throughout the judicial department. The head ministerial officers of every court of justice are obliged to be selected from the highest and most respectable class of natives: their responsibility is greater, their duties more arduous, and their temptations stronger and more frequent than in any other line; while their allowances, instead of being in proportion to these weighty considerations, are lower than those of any other public servant, and in Canara scarcely sufficient to support them in that rank of life in which their situation compels them to move. This is an evil of serious moment, and one which I beg leave earnestly to recommend to the particular notice of Government. The removal of the whole of the court servants I beg leave likewise to urge; and I request to be honoured with early orders on this subject, as the business of the court, which has fallen considerably in arrears during the late inquiries, cannot be properly conducted without the appointment of a new and efficient establishment.

I cannot

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I cannot conclude this letter without again expressing to his Excellency the Governor in Council, how sincerely I have been affected at the late unhappy occurrences. It is a consolation, however, to reflect, that a strict and candid retrospect brings to recollection no blind repose of confidence, no unauthorized delegation of authority, no derelection of public duty, which could have given birth to these villanous designs, or have encouraged such wicked proceedings. The high character the two servants bore on commencing their judicial cases, the uncommon abilities and alacrity they always evinced in the discharge of their public duty, placed them high in my estimation, and induced me to consider my court as unusually well appointed. These public qualities, which to the latest hour were not observed to diminish, were of themselves sufficient to entitle the possessors to consideration; and when united in private life (as the consummate art of these men made it appear) with a charitable disposition towards the poor, a lively interest in the distresses of the unfortunate, and the strictest attention to morals and decorum, they became infinitely more estimable and commanded respect. Their native deformity of character is now fully exposed: an exposure for which the public are principally indebted to the zealous exertions of Mr. Gahagan. In bearing testimony to this gentleman's merits, it is but justice to declare, that I am indebted to him for the first information I received of these iniquities, and for every co-operation and support in any subsequent inquiries, which abilities, added to an anxious solicitude to detect abuse, could possibly afford. I acquit myself of a pleasing duty I owe the Government, in submitting to their particular notice the services of a public officer, who has distinguished himself so much on the late occasion, and whose career of public life has commenced under circumstances so highly creditable to himself and so flattering to the interests of his employers.

I feel myself called upon also to acknowledge, in the strongest manner, the services I have received from Mr. Read, the Collector, and Mr. Campbell his Assistant. I am sensible that the former gentleman's public character is too firmly established to derive additional repute from the most flattering testimony I can bear to his merits: I should, however, be deficient in duty, were I to omit assuring his Excellency the Governor in Council, that the cause in which I have been engaged has derived every assistance from the cordial co-operation of Mr. Read, as also from the exertions of Mr. Campbell, who proceeded at the shortest notice to the estates of the head servants to search for and secure their property, a service which he performed with great alacrity and success.

I beg leave also to recommend to the favourable notice of Government the services of Narnapah, who was one of the first to come forward with information and charges against the head-men, and has afforded much valuable assistance in the subsequent examination. This person was formerly employed as Government Vakeel in the Mangalore court, from which situation he was removed by orders of the Sudder Adawlut; it is not desirable, therefore, that he should again be employed in the judicial department, although his services have been very essential in the late investigation. I should rather recommend, that a compensation should be granted him, and beg leave to propose that the sum of one hundred and fifty or two hundred Star Pagodas be presented to him for his services, a reward to which he has proved himself entitled, and which will encourage others to make similar disclosures, if future abuse in this, or any other public department, should render such disclosure necessary.

The two ministerial officers have been detained in restraint until the present time, as well in consequence of information I received, at the commencement of the inquiry, of an attempt one of them had made to suborn evidence, as on account of charges preferred against them of having prevented two cases of murder, and other serious complaints, from being brought before me, the proof of which interference was so strong, that I have since committed them to take their trial before the circuit court. Independent of this, the property found in their possession was greatly inadequate to answer the demands existing against them: a circumstance which gave just grounds for suspecting that they would abscond if left at liberty, and rendered their detention a measure of the most imperious necessity. They have given security, in the amount of four thousand rupees each, for their appearance before the circuit court to answer

to

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to the magisterial charge preferred against them, and have been sent under restraint to the provincial court to prosecute their appeals in the civil causes; and after the offended laws have been satisfied, with respect to the undue interference which they are charged with having exercised, and the sums finally decreed against them may be fully accounted for, it will rest with the wisdom of his Excellency the Governor in Council to issue his final mandates for their disposal.

I must now most earnestly entreat of his Excellency the Governor in Council to feel convinced of the serious distress I have experienced from the late unhappy occurrences. The lesson of experience which the events of the last few months have afforded have made on my mind a deep and lasting impression, and will call forth my most strenuous exertions to repair the injuries of the past, and guard against the abuses of the future. The flattering confidence which his Excellency the Governor in Council has been pleased to place on my integrity demands every sentiment of gratitude, and will ever prove the most powerful incentive to persevere in a line of conduct, calculated to advance the interests of the Government under which I serve, and to merit a continuance of the approbation with which I have hitherto been honoured.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) A. WILSON,
Judge and Magistrate.

Zillah Court, Canara,
1st December 1813.

The following draft of a reply is read and approved.

To the Judge and Magistrate in the zillah of Canara.

SIR:

I am directed to acknowledge the receipt of your letter, dated the 1st ultimo, reporting on the decisions which have been passed against the head ministerial officers of your court, on charges of bribery and corruption The Governor in Council proposes, as was intimated to you in my letter dated the 21st May last, to circulate such instructions to the Judges and Magistrates of the different zillahs, as may seem best adapted to detect and prevent abuses similar to those which have prevailed in Canara. The whole of your letters on the subject will be taken into consideration, with a particular view to that intention; but, before executing it, the Governor in Council would wish to ascertain the issue of one or more of the appeals which the parties have made from your decisions, and will expect you to furnish information on that point.

2. With regard to your recommendation, that all the native servants and Commissioners under you should be dismissed for connivance at the abuses which have been practised in your zillah, the Governor in Council conceives that it would be preferable that their dismissal should take place in the regular manner prescribed by Regulation V, A.D. 1811; or if that course of proceeding be attended with difficulty, or liable to objection, that the authority of Government (founded on Section 13 of the Regulation above quoted) should not be interposed, till the Government has seen reason to be satisfied of the misconduct of each individual who is to be dismissed.

3. The Governor in Council authorizes you to pay a reward of two hundred pagodas to Narnapah, who was one of the first to come forward with complaints against the ministerial officers; but it has not been thought proper to comply with a petition recently received from him, praying that he might be restored to public employment.

4. The Governor in Council has observed with satisfaction your renewed testimony to the assistance which you have derived from the other public officers in Canara.

I am, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George,
4th January 1814.

EXTRACT

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 18th February 1814.

Read the following letter from the Judge and Magistrate at Canara.

To the Secretary to Government, Fort St. George.

Sir:

Madras Judicial Consultations, 18 Feb. 1814.

I have the honour to acknowledge the receipt of your letter of the 4th ultimo, and to inform you that I shall lose no time in communicating the issue of the appeals made by the head ministerial officers of this court as soon as the same is made known to me by the appeal court.

I have the honour, &c.

(Signed) A. WILSON,
Judge and Magistrate.

Zillah Court, Canara,
10th February 1814.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
21st February 1815.

Extract Letter from T. H. Baber, Esq. Judge and Magistrate of Canara, Dated 31st January 1815.

Madras Judicial Consultations, 21 Feb. 1815.

The system of rapine and extortion which have been carrying on throughout this zillah for so many years, on the part of the two late principal ministerial servants of the zillah court, having extended to the whole of the inferior servants, and considering how much the weight and authority of the court must have been lowered in the eyes of the people in consequence, it appears of the last importance that that agency, and the influence which still belongs to it, should be entirely annihilated; for until it is, it will, I fear, be in vain to expect that the most unwearied exertions on the part of the Judge and Magistrate will produce that conviction in the minds of the inhabitants, so necessary to resist and expose any similar future attempts to deceive them: and as the only effectual way to do this is by means of a direct communication with the whole of the inhabitants, and by dismissing every servant who may be found to have connived at these intrigues of the ministerial servants, or in any other way rendered themselves unworthy of public confidence, I beg to request the authority of Government to suspend the whole of the present court establishment, with the exception of the head magisterial servant (who alone seems to have acquitted himself to the satisfaction of the late Judge), and to go to whatever part of the zillah my presence may appear necessary, taking with me no servants but such as are wholly unconnected with those on the zillah court establishment.

Adverting to the number of civil causes on the file, the time that has elapsed since they were instituted, the suspension of all the Commissioners during the last eighteen months, and the great distance from the court of the districts above the Ghauts, I beg to submit, in the event of the Judges approving of the adjournment above proposed, that I may be empowered to investigate, as I go through the country, such of the civil causes as may have been brought forward through the intrigues of the ministerial officers and Commissioners, for the iniquitous purpose of extorting money from parties and witnesses, as reported in my predecessor's several letters to Government, and any cause the parties whereof may apply for, and the merits whereof may appear to call for immediate decision. I beg also to recommend, that the law officers of the court, who have done no duty since the 31st May 1813, as Sudder Aumeens, may be either reinstated or removed altogether from office, should there exist in the minds of the Judges the smallest grounds to suspect they have participated in, or in any way connived at any one of the iniquities committed by, or even charged against the other ministerial officers of this court. Both the Mooftee and Pundit presented petitions, under date 10th September 1814, to my predecessor,

decessor, requesting authority to resume their functions of head Commissioners; but as no order was passed thereupon by Mr. Wilson, I now forward their petitions for the orders of the Sudder court.

Madras Judicial Consultations, 21 Feb. 1815.

To the Court of Canara.

The Petition of Sudder Aumeen Mooftee Mowleve Nazeeb Oolla, dated the 9th September 1814.

A proclamation was issued on the 31st May 1813, suspending all the native servants from their duties, and therefore from that time to this day I have not decided any causes. On the 10th January 1814, another proclamation being issued that the civil court was opened, and having some doubt whether I can resume my functions, or whether I must have orders to do so, I have written this petition, that it may not be thought I have neglected to do my duty.

(Signed) NAZEEB OOLLA.

To the Court of Canara.

The Petition of Sudder Aumeen Pundit Anaychary, dated 9th September 1814.

A proclamation was issued on the 31st May 1813, suspending all the native servants from their duties, and from that time to this day we have not decided any causes. On the 10th January 1814, another proclamation having been issued that the civil court was opened, and having some doubt whether we can resume our functions or not, I have written this petition. Since my arrival to this day, besides the razeenamahs and the suits withdrawn, only three or four causes were decided by me. I have received fees seven rupees; and the balance, twenty-seven rupees, due on causes decided, is now in court. I have written this, that it may not be thought that I have neglected to decide suits. I request that orders may be given on this subject.

(Signed) ANAYCHARY.

True Copies,

(Signed) T. H. BABER,
Judge and Magistrate.

Ordered, in consequence, that the following letter be dispatched to the Register to the court of Sudder Adawlut.

To the Register to the Court of Sudder Adawlut.

SIR:

I am directed to transmit to you the accompanying copy of a letter from the Judge and Magistrate in the zillah of Canara, enclosing copy of a letter addressed by him to the Sudder Adawlut, and to state that the Right Honourable the Governor in Council is desirous, before furnishing any instructions to Mr. Baber, to be informed of the sentiments of the court on the points which he has brought under their consideration.

I have the honour, &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George,
21st February 1815.

EXTRACT

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 1*st April* 1815.

Madras Judicial Consultations, 1 April 1815.

SENT the following letter:

To the Secretary to Government in the Judicial Department.

SIR:

I am directed by the Sudder Adawlut to transmit to you the accompanying extract from the court's proceedings of this date, for the information of the Right Honourable the Governor in Council.

I have the honour, &c.

(Signed) R. CLARKE,
Deputy Register.

Sudder Adawlut, Register's Office,
20th March 1815.

Extract from the Proceedings of the Sudder Adawlut, under Date 20*th March* 1815.

READ letter, dated the 21st ultimo, from the Secretary to the Government in the Judicial department, requiring the opinion of the court on a communication from the Judge and Magistrate of Canara.

The Court direct that the receipt of the above letter and its enclosures be acknowledged, and that an extract from the proceedings of the court, under date the 22d ultimo, on the letter of the Judge and Magistrate of the zillah of Canara, dated the 31st of January, be transmitted, with extract of these proceedings, to the Secretary to Government in the Judicial department, for the information of the Right Honourable the Governor in Council.

Extract from the Proceedings of the Sudder Adawlut, under Date 22*d February* 1815.

The Regulations not having provided for the exercise of the judicial functions by a Judge and Magistrate moving about his zillah in the latter capacity, the Court cannot accede to the proposal made by Mr. Baber, that he be empowered to investigate certain civil causes as he goes through the country. The delegation of judicial power to the Register during the absence of the Judge can be authorized only by the Governor in Council, to whom the Judge will therefore apply for that purpose, should he continue to deem such a measure expedient.

The accusation against the Mooftee and the Pundit of the zillah court of Canara not being before the Court, they cannot pass any order for the restoration to those persons of the authority of Sudder Aumeen, or for their final removal from office.

Ordered, that extract of these proceedings be transmitted to the Judge and Magistrate of Canara, for his information and guidance.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 7*th April* 1815.

Extract Letter from the Magistrate at Canara, dated 14*th March* 1815.

Madras Judicial Consultations, 7 April 1815.

Par. 6. THE unfavourable opinion of the court servants, as communicated in my letter of the 31st January, is, I am sorry to say, strengthened, the further I see into their characters. Their criminal silence during the late system

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system of terror and iniquity under Pootapah and Maudapah, and the motives thereof, are explained in my predecessor's letter under date the 1st of December 1813, and must destroy all confidence in such men; and the following circumstance, out of many which have come before my observation, will shew that the same attachment to the fortunes of these infamous men still continues, to the great hindrance of public justice.

7. On the file of criminal cases undecided are two complaints (No. 19) against Pootapah's brother, Ramapah, by two natives above the Ghauts, instituted so far back as September 1813, for having forcibly carried off from their houses two young girls of the Gamarick caste, who have not been since heard of. On the 15th of January I took up the case, and summoned the prosecutors and witnesses, and sent very particular orders to the Thannadars, to ascertain what had become of the girls; but, I am sorry to say, all my endeavours have as yet proved unavailing. One of the girls is reported to have died: the other, by name Bemee, the prisoner and his father report to have gone some months ago on a pilgrimage into the Mahratta country. One of the prosecutors the Nazir has not caused the attendance of: the other is reported to have died very shortly after the complaint was laid, and his brother and the principal witness, although they had been in attendance at the court for some days, were not reported agreeably to custom, and my repeated orders to the Nazir, and the latter has disappeared (and not improbably bought off) before I had an opportunity of interrogating him. But what confirms my suspicions of the guilt of Ramapah and the intrigues of the court servants is, that the girl Bemee, who is said to have gone upon a pilgrimage, was at Pootapah's house in Sedashigur when the Thannadars went there to demand her restoration to liberty, and has been since reluctantly carried out of the zillah to a place within the Goa territory, about fifty miles from Sedashigur; and I have certain information that during the inquiry a letter was received from the prisoner's friends at Sedashigur to his relation at this station, directed to the care of Jogupah the native Register of this court.

8. Another convincing proof how little the servants are to be depended upon is in the contingent charges. A quarterly account, ending in the month of January, I have been obliged to refuse affixing my signature to; not from any inquiry of the actual costs of the particular items, but from the absolute impossibility that many of the charges can be correct: for instance, rice, such as issued to prisoners, is charged at sixty-five rupees, when the price was only forty-eight rupees per corge; oil, at thirty-five rupees per candy, when the price was only twenty-two; fire-wood, three rupees per mille, when the price was only one and three-fourths; earthen pots, double and even treble their actual cost; sums charged in October and December for repairs to the gallows, the original construction of which could not have cost one-third of the sum charged, and a charge for a court bar, for treble more than it ought. But the most glaring fraud attempted has been to charge more than the actual cost for various articles supplied the jail and court-house since my succeeding to the charge of this zillah, notwithstanding all my care to provide against it, and my repeated warnings to the servants that I never would pardon an act of dishonesty or deceit. I forward, for the information of Government, copy of a letter I addressed to the provincial court upon this subject, and the orders I have received thereon, the first part whereof relates more immediately to these frauds; and if any further proof is required of the existence of illegal profits, it will suffice to state, that the sum total of contingent charges was three hundred and four rupees less the last month than in January, and seven hundred and fourteen rupees less than in December, exclusive of the reduction in the charge for jails, as reported in my letter, dated 31st January.* I have not had leisure to hold the inquiry ordered in the provincial court's letter, further than to call upon the servants implicated in these frauds for their defence, from which, however, as I fully expected, nothing satisfactory has transpired, and I shall not be able to go on with it until my return: and as I think I have shewn sufficient reason does exist to believe the servants unworthy of

* Contingent Charges in December	Rupees 1,073	3	0
Ditto in January	783	2	0
Ditto in February	158	2	0

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of public confidence, I beg to renew the recommendation submitted, both by my predecessor and myself, to remove the whole of the court establishment, or at least such of them as are the least to be depended upon.

To the Register to the Provincial Court.

SIR:

Par. 1. I have the honour to report, for the information of the Provincial Court, a gross attempt on the part of the servants of this court to defraud Government, by charging considerably more for every article supplied to the jail and court-house than the current prices.

2. The nature and extent of these frauds for last month are explained in the accompanying indent upon the Collector for January's establishment and contingent charges; but should further evidence be required of the existence of great abuses, I have to inform the court that, under the arrangements I have carried into effect, the expenses for dieting the prisoners and providing current contingencies have been reduced twenty, and in some articles one hundred per cent., while the allowance to the prisoners has been increased.

3. I cannot inform the court who the individuals are who have participated in these illegal gains; and as such an investigation would take up a great deal more time than I can spare from the other duties of the court, I have confined my present recommendation to the dismissal of those who have prepared these false charges. These are the head English writers, who drew out and presented the indent for my signature; the Gomashta and Shroff, who wrote the Canarese accounts; and the Cutwall, who signed part of these charges; and also the Nazir, whose particular and bounden duty it is, but who has neglected to report these frauds carrying on by the other servants.

4. Since my detection of these improper charges, the English writer, Goveas, has brought me a corrected indent, which exhibits a decrease in the contingent expenses of Star Pagodas 18 30 44, though still the articles of rice and oil are charged for much higher than I have ascertained they should be.

5. I have further to inform the court, that I entertain considerable doubts whether the whole establishment is kept up. I have received applications from some of the Thannadars, some for their full establishment, others for arrears of pay; and the explanation given by the court servants is so unsatisfactory, that I must send some confidential person to muster the Peons at every Thannah, as the only way to ascertain whether the number charged for are actually entertained.

6. To shew the Provincial Court how little dependance is to be placed upon the court servants in the most trivial duties, the annual statement, ordered by Section 19, Regulation IV, A. D. 1811, was brought a few days ago for my signature, when instead of finding the whole of the robberies and other heinous crimes &c. for one year, there were not the whole number entered in December's returns, and no notice whatever taken of the gang robberies ascertained and reported by the police officers to have been committed in that month.

7. Should the Provincial court coincide with me in the necessity of these removals, I propose, with the court's sanction, to fill up the vacancies from the other courts, and to nominate such of the servants to whom the change would be advantageous, and whom the Judges of the courts respectively might consider most deserving of promotion.

8. Since writing the above, I have received the court's precept, forwarding extract of their proceedings, dated the 6th, refusing to sanction the arrangement submitted in my letter under date the 2d instant.

9. In answer to the first of the court's objections I beg leave to explain, that the services of one of the Canarese Gomashtahs can be dispensed with, which under the provisions of Section 24, Regulation I, A. D. 1809, is a sufficient ground for recommending his removal; and as a Malayalum writer is indispensable, I naturally give the preference to a servant in whose ability and integrity I can rely, over one I know nothing about. And in regard to the second objection,

objection, I beg to observe, that a great portion of the coast merchants is composed of Moppillas; and that there are many hundred inhabitants in the southernmost parts of this zillah whose native tongue is Malayalum.

10. Within the short period I have been here, I have examined several persons in Malayalum, and there are many cases now pending, both in the civil and criminal courts, the proceedings whereof must be held in that language, under the provisions of Section 16, Regulation VI, A. D. 1802. Indeed, I entertain considerable doubts whether evidence recorded in any other than in the language the deponent understands would be legal. The only person, as I have before observed, in this court who knows any thing of Malayalum, is the Sheristadar, and my knowledge of that language warrants me in saying that he is incapable of taking correctly a deposition. As a specimen of his ability in writing, I beg to refer the Provincial Court to the confession of the prisoner lately tried by the Judge on circuit at this station for throwing her infant child down a well. The case is No. 1 on the additional calendar.

11. From long experience of Baboo Row's abilities, I know him to be totally unequal to the duties of his present situation. What my predecessor's opinion of him may be I know not, further than that his opinion of the servants in general in this zillah is most unfavourable: if, however, he has conducted himself to Mr. Wilson's satisfaction, he would in all probability get Marsinga Row's situation in North Malabar; and with every deference to the opinion of the Provincial Court, I cannot see the objections to the removal and appointment of native servants from one zillah court to another. There is nothing in the letter or spirit of Regulation I, A. D. 1809, or V, A. D. 1811, that militates against it: on the contrary, the professed object of these enactments is to select and secure in their appointments all persons who are properly qualified, and do discharge their duties with diligence, ability, and integrity; and where was I so likely to find such servants as in a court of judicature, and especially in one where I have such an intimate knowledge of the characters and abilities of every one of its officers.

12. That advancement and promotion should be equally open to native servants as to ourselves, cannot, I think, be denied. I have ever acted upon this principle towards my servants, of which the two Baboo Rows are striking instances. Both of them resigned their situations in the court of zillah North Malabar, and both were afterwards appointed to superior situations, one in this, the other in the Provincial Court; and if I am not greatly misinformed, many other instances may be adduced of the removal and appointment of native servants from one court to another.

I have, &c.

(Signed) T. H. BABER,
Judge and Magistrate.

Zillah Court, Canara,
10th February 1815.

PROVINCIAL COURT (L. S.) WESTERN DIVISION.

To the Judge and Magistrate in the zillah of Canara.

Pursuant to an order of this court you will herewith receive an extract from its proceedings under this date, for your information and guidance.

Given under my hand and the seal of the court, this 15th day of February 1815,

(Signed) F. HOLLAND,
Register.

Extract from the Proceedings of the Provincial Court in the Western Division, under date 15th February, A. D. 1815.

Re-perused the letter from the Judge and Magistrate of the zillah of Canara, recorded the 10th instant.

The Judge and Magistrate reports that he had detected a gross attempt on the part of the native servants of his court to defraud Government, in having charged,

Madras Judicial Consultations, 7 April 1815.

charged, in the monthly indent on the Collector for the establishment and disbursements of the zillah for the month of January; considerably more than the current price for various articles supplied the jail and court house, under the head of contingent charges.

The Judge and Magistrate hath transmitted with his letter the indent on the Collector as first submitted to him for signature, containing the exceptionable charges in question, with his remarks on each item, and a statement subjoined, shewing the alterations, both in quantity and price, of the articles charged made therein in consequence of his having referred back the account for correction.

The court can have no hesitation in concurring with the Judge and Magistrate, that those of the court servants who shall appear to have been principals in, or who have connived at these fraudulent practices, merit dismission from their situations: but it is not in the present stage of the development of these delinquencies, prepared to sanction the dismission as recommended by the Judge and Magistrate of the officers named by him, viz. the head English writer, a Gomashtah, Shroff, Nazir, and Cutwall.

Justice seems to demand that farther inquiry should be made, that those accused or implicated should be heard in their own exculpation, and it should be more accurately ascertained on whom the responsibility for the fidelity of the contingent charges rests.

The Judge and Magistrate having stated that he has made arrangements in that respect, so as to preclude the recurrence of similar frauds, no public detriment can ensue from the delay that the further investigation for the purpose of ascertaining the above-mentioned points will of necessity create.

The Provincial Court remarks, that the Judge and Magistrate has expressed the same intention in respect to the filling up the vacancies which would be occasioned by the court's sanctioning the dismission of the five native servants above-mentioned, as in his reference of the second instant he has proposed in regard to the Sheristadar and Canarese Gomashtah, viz. from among the officers of the other zillah courts.

In the letter now under consideration, written subsequently to the receipt of the sentiments of the court on his former proposition in respect to the Sheristadar and Gomashtah, the Judge and Magistrate combats the opinion therein expressed in disapprobation of the principle of taking away the native servants of one court for the purpose of supplying the vacancies in another, and re-urges the expediency of the court's compliance with his recommendation for the removal of the Sheristadar and Gomashtah, and supplying their places with the two native servants named by him, now in the establishment of the zillah court of North Malabar.

As to the question, generally considered, of the expediency of transferring the native servants of one court to fill up vacancies in another, the court still continues in the sentiments already expressed.

It is convinced that the greatest embarrassment and hindrance to public business would ensue in the court, deprived of its officers experienced in the business of that court to which they may have been attached, which must in most instances be very different from that of any other to which they might be transferred, and that whatever temporary accommodation and conveniences such might be productive of to this latter, it would be at the expense and to the detriment, in at least an equal proportion, to the former.

The Provincial Court has on several occasions sanctioned the appointment of a native officer belonging to one court to another, on his resignation of such prior office; but it has been invariably under the belief, that in this particular instance it could not be productive of any injury to the public service, or create any inconvenience to the court from which such officer might have been transferred.

But the Court cannot admit of the eligibility of the adoption of this practice to the extent contended for by the Judge and Magistrate of Canara, who appears to wish to establish the principle, that the courts are to be considered as

as a sort of nursery, from whence all vacancies in the others are to be supplied, and that they may be drawn upon at pleasure, merely leaving to the Judge of that court the privilege of naming those to be thus transferred.

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The sanction of the Provincial Court to the Judge and Magistrate's proposal to dismiss the Canarese, and to appoint a Malayalum Gomashtah in his stead, does not fall within the scope of the authority vested in it by Regulation V, 1811. It involves clearly a modification of the establishment already sanctioned by Government, and agreeably to the provisions of Section 12 of the said Regulation, must be submitted for the decision of Government through the prescribed channel.

In regard to the reiterated recommendation by the Judge and Magistrate of the removal of the acting Sheristadar Balwee Row, on the grounds of the opinion of his incapacity, with which the Judge and Magistrate seems to be so firmly impressed, the court will defer passing a final opinion thereon, till the receipt of the answer to the reference made on the 13th instant to the Judge and Magistrate of North Malabar connected with the subject.

Ordered, That copy of the above be sent to the Judge and Magistrate of Canara for his information and guidance.

(A true extract)

(Signed) F. HOLLAND,
Register.

EXTRACT LETTER *from the* SECRETARY *to* GOVERNMENT *to* Mr. BABER, *the Magistrate of Canara, dated 7th April* 1815, *in Reply to his Letter of the* 14*th March* 1815.

Par. 3. THE Governor in Council leaves you at liberty to suspend from employment as many of the court servants as you have reason to believe unworthy of confidence, but the proof of their delinquency must ultimately be established in the regular manner prescribed by the Regulations.

Letter to Magistrate of Canara, 7 April 1815.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS, *The 17th July* 1815.

READ the following letter from Maudapah.

To David Hill, Esq. Secretary to Government.

I beg leave to inclose a petition directed to the Right Honourable the Governor in Council, which I request may be delivered at the next council day, or at your convenience. I humbly trust that no umbrage may be taken by this intrusion, as I am constrained to do so for want of a remedy to bring my case to the notice of Government, which I am confident the present channel will be the only means of having a hearing, and which favour I shall ever esteem.

Madras Judicial Consultations, 17 July 1815.

I am, &c.

(The Signature of MAUDAPAH.)

Madras, 5th July 1815.

To the Right Honourable Hugh Elliott, Governor in Council of Fort St. George, &c. &c. &c.

The humble petition of Maudapah, an inhabitant of Canara, under the Government of Madras,

Humbly sheweth:

That your petitioner, supported with the conscience of meeting every favourable consideration which the peculiar circumstances of his case demands, humbly acquaints your Lordship in Council,

That

Madras Judicial Consultations, 17 July 1815.

That your petitioner was formerly in the service of the Collector's office at Mangalore, as a Mahratta writer under the head Sheristadar, where your humble petitioner served seven years, and quitted it on being appointed a Foujdarry Sheristadar to the zillah court of Canara.

That during your petitioner's employment in the latter place, your petitioner witnessed several complaints being brought to the Magistrate, complaining of pillage committed in the district of Canara by a gang of ruffians issuing from the Mahratta states which border on the side of Canara, and several attempts were made to apprehend and bring them to punishment, but by the assistance of their chief Poligar, who divides the spoil with one Narrain Row, the Peishcar of the talook of Soupah, in the district of Canara, they avoided a discovery; but in order that the pillage might be carried to a greater extent without discovery or molestation, Narrain Row attempted to procure for the Poligar five villages in the district of Canara, but failed in his application to the Collector.

That while the deputy Collector was proceeding from Mangalore to settle the kist of Jummabundy for the year 1812 in the district of Canara, Narrain Row conveyed him to the Poligar, where they exchanged presents, and Narrain Row prevailed upon the deputy Collector to issue an order for the grant of five villages to the Poligar, which were assigned him by Narrain Row in the district of Canara.

That after the grant and assignment of these villages to the Poligar, several depredations and robberies were committed with impunity in the neighbourhood of Canara, by the persons under the protection of the Poligar and Narrain Row, several complaints whereof were laid to the Magistrate, and your petitioner then acquainted him (who was ignorant of the circumstances) that the Poligar was in possession of the five villages, and that consequently his men were committing the injuries: on which information the Magistrate wrote a letter to the Collector, who wrested the villages from the Poligar, and thereupon, by the orders of the Magistrate, your petitioner and a guard of fifteen Sepoys and twenty-five Peons proceeded to the Mahratta dominions, and traversed the woods and villages, where after a discovery and search for three months, suffering all kind of privation and distress, your petitioner apprehended two hundred Peons who were implicated in the robberies, and brought and delivered them to the Magistrate of Canara, who placed them in confinement.

Sic orig.

That all the above proceedings were by a letter duly communicated to Government, wherein also your petitioner was highly commended for his services.

That Narrain Row and the Poligar having combined with one Nagapah, one Nernapah, and one Nelly Roy Timmapah, the inveterate enemies of your petitioner, for the purpose of devising means to injure your petitioner for giving the information and apprehending the robbers, shortly after the above event had an interview with the deputy Collector, when he was on circuit to settle the kist of jummabundy for the year 1813, in which they represented that your petitioner had used every means to injure his reputation and authority, and requested that he, Mr. Campbell, would in return use every means to injure your petitioner; and upon the false information then given against your petitioner, he, the deputy, hastened from his public duty, and gave information against your petitioner for bribery and corruption to the Magistrate of Canara, upon which your petitioner was summoned and attended at ten in the morning to answer the charge; but finding at six in the evening no examination took place, your petitioner departed to his house, but was brought back by a Peon and examined by the Magistrate in the presence of Mr. Gahagan, the Register, and afterwards sent under a guard of Sepoys and Peons to his house, who closely watched his house all night, and he was brought and confined next morning in a godown near the court, where he remained from Saturday till the following Tuesday, when he was removed to the criminal jail; but on the day preceding his removal, Mr. Wilson, the Magistrate, in company with Mr. Gahagan, took a guard of Sepoys and Peons and a number of convicts, with iron instruments, to dig up the earth for discovery of treasure, and proceeded to your petitioner's women, and plucked out their ornaments, and confined them, and afterwards searched for and took away title deeds, bonds, accounts, documents, vouchers, money, jewels, and household furniture, to the value of 28,500 pagodas and upwards, and afterwards

wards proceeded to dig up the earth, and took away all the property concealed there, some part of which property hath been plundered and lost, and the rest has been confiscated and deposited in the hands of the Magistrate.

That for the purpose of procuring evidence to condemn your petitioner of the charges given against him, several evidences were called, who could not prove any thing against your petitioner, and in consequence thereof were put in close confinement, and the property of Dausabut Anunthapah, Auchurny Beekapah, Sambasatree, and Kuthree Beekapah, were plundered and taken away, and after a privation of three months' confinement, which almost produced the horrors of death, Dausabut and his wife and son were removed from their confinement, and all of them perished in the space of a fortnight.

That after your petitioner's removal to the criminal jail, he was not suffered to have any sustenance or drink for seven days; and when he was about to expire, the Magistrate ordered him to take luncheon once a day, which was given him for fifteen days: but when Mr. Gahagan attended in jail and found your petitioner was supported by luncheon, he ordered that your petitioner should not receive any, but to die with starvation, and your petitioner in consequence had no sustenance or drink for twelve days. When in a dying state, the Magistrate in company with Mr. Gahagan and certain of his servants came to behold your petitioner in jail, and finding him in the state described, they ordered the servants to put water on his breast, eyes, and body, to discover symptoms of life, which they found was yet remaining when the servants had thrown the water, and thereupon ordered to give your petitioner luncheon, by which he became revived.

That your petitioner continued in such confinement for eight months, and during the first three months was loaded with fetters.

That during such confinement all the lands belonging to your petitioner were sequestered and sold, and the property of your petitioner's father and brothers at Sadashedad were sold and confiscated by the deputy Collector, on account of the charges given against your petitioner, and your petitioner's father and brothers were unjustly seized and confined for several months without any cause whatsoever.

That a proclamation, by beat of tom-tom, was also issued and proclaimed by the Magistrate in the neighbourhood of Canara, inviting persons who had any charge, or could give any evidence against your petitioner, to come forward and explain the same; but no persons ever came forward to alledge any thing against your petitioner, and he was in consequence, after eight months false imprisonment, released upon an examination by the circuit Judge.

That all and singular the premises being arbitrary and oppressive, and conducive of much injustice, your petitioner therefore humbly prays your Lordship in Council will be pleased to order that a due investigation be had into the several circumstances above stated, and that all the property and lands of your petitioner, which have been unjustly plundered and confiscated, be made good, and restored to your petitioner, and that a compensation of damages, proportionate to the injury, may be made to your petitioner for false imprisonment, and that an inquiry may be made into the circumstances attending the death of the three persons above described; and that your Lordship in Council will be pleased to determine thereupon, and grant such relief as in your Lordship's wisdom shall seem meet.

And your petitioner, as in duty bound, shall ever pray.

(The signature of MAUDAPAH.)

Madras, 5th July 1815.

Ordered, in consequence, That the following letter be dispatched to the Judge and Magistrate at Canara.

To

To the Judge and Magistrate at Canara.

Madras Judicial Consultations, 17 July 1815.

Sir:

I am directed by the Right Honourable the Governor in Council to refer for your investigation and report the annexed copy of a petition presented to Government by Maudapah, an inhabitant of your zillah.

I am, Sir, &c.

(Signed) DAVID HILL,
Secretary to Government.

Fort St. George,
17 July 1815.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
13th October 1815.

Read the following letters from the Magistrate at Canara and from Maudapah.

To the Secretary to Government, Fort St. George.

Madras Judicial Consultations, 13 Oct. 1815.

Sir:

I have the honour to aknowledge the receipt of your letter, under date the 17th ultimo, forwarding, for my investigation and report, copy of a petition furnished to Government by Maudapah, an inhabitant of this zillah; and however irksome the task is to me to investigate charges preferred against my fellow servants, yet as I never have, so I never will shrink from the execution of any duty my honourable employers may think proper to commit to my execution. I have, accordingly, to acquaint you, for the information of the Right Honourable the Governor in Council, that I have summoned all the persons whose names are mentioned in that petition, and as the petitioner was at the presidency, I advised the father and brothers of the orders I had received, and wrote to the Collector for the information of his head assistant, Mr. Campbell, and also to the late magistrate, Mr. Wilson, and forwarded to the latter gentleman copy of the despatch I had received from Government, for any observations he might have to offer thereupon, and requested him to mention the names of any persons he might wish to be called before me, and further to authorize some person, European or native, to be present during the investigation. In consequence of the petitioner's accusations of severe indisposition occasioned by inhuman treatment while in jail to himself and to others confined on his account, I also called upon the zillah surgeon for his report, whose answer I have great pleasure in transmitting for the information of the Right Honourable the Governor in Council. This day, however, the enclosed letter has arrived in answer to my address, dated Madras, 28th July, from Maudapah, requesting that the examination may be deferred until his arrival at Mangalore about the end of September, and which has determined me to stay further proceedings until that period, unless I receive the orders of Government to the contrary.

I have, &c.

(Signed) T. H. BABER,
Magistrate.

Zillah Court, Canara,
4th August 1815.

To T. H. Baber, Esq. &c. &c. &c. Canara.

Honoured Sir:

With all humility and submission I beg leave to forward these few lines, and thereby to acquaint your Honour that, in consequence of the persecutions of my enemies and the total confiscation of all my property at Canara, I come to this place to seek redress for the injuries I had sustained, and for the recovery of my property, for which purpose I delivered in a petition to Government

ment on the 5th instant, who, by their Chief Secretary, directed me to proceed to Canara, to attend upon your Honour for an investigation into the circumstances contained in such petition for the further consideration of Government; but I beg leave to acquaint your Honour, that since my arrival hitherto, I have been much indisposed, and cannot, with any propriety, undertake an immediate journey without endangering my health; but as I expect to be able to make a journey within a month, I humbly request your honour will be pleased to defer the examination until my arrival, which will, in all probability, be by the end of September.

Madras Judicial Consultations, 13 Oct. 1815.

I am, &c.

(Signed) MAUDAPAH.

Madras, 28 July 1815.

To T. H. Baber, Esq., Judge and Magistrate, Zillah Canara.

SIR:

I have the honour to acknowledge the receipt of your letter of yesterday, in answer to which I have to state that I have examined the hospital lists of patients, and find that none of the six men you mention (viz. Dewsa Chest, Anunthapah, Dauchery, Bekepah Same Sastree, and Kuthree Beckpah) have been under my care.

With regard to Maudapah, I recollect that once, previously to his confinement in the common jail, he sent for me to see him, stating that he was unwell. He was, at the time of my seeing him, in custody in a room at the back of the court-house: he had free egress to a yard, and appeared under slight restriction only, his family visiting him and bringing him his victuals. His illness was not of a nature to require medical treatment, proceeding entirely from his sullen obstinacy in refusing food: however, after a great deal of persuasion he was induced to eat, and of course recovered his strength. From this place he was removed to the common jail, and at no time was his bodily health such as to render it necessary for him to be admitted into the hospital.

I have, &c.

(Signed) L. G. FORD,
Assistant Surgeon.

Mangalore, 2d August 1815.

To the Secretary to Government, Fort St. George.

SIR:

In continuation of my letter, dated 4th instant, I have the honour to submit, for the information of the Right Honourable the Governor in Council, two original letters from the Collector (Mr. Read), and one from the late Magistrate (Mr. Wilson), forwarding a statement of the occurrences on the subject of Maudapah's petition. In the fifth paragraph of the latter document a communication with Mr Read is noticed, which seemed to call for that gentleman's observations. His reply to that call is herewith forwarded, as well as copy of a letter from the zillah surgeon (in answer to a late reference I had occasion to make to him), the last paragraph of which would make it appear that his letter, dated the 2d instant, forwarded in my letter of the 4th instant, is not quite so conclusive as I was then led to suppose. I have, of course, directed the surgeon to include in his future daily reports every description of sick under his charge. I think it proper also to state, that the indiscriminate confinement of convicts and civil debtors in one prison, as noticed in Mr. Wilson's letter, has not existed since my succeeding to the zillah.

I have, &c.

(Signed) T. H. BABER,
Judge and Magistrate.

Zillah Court, Canara,
18th August 1815.

Madras Judicial Consultations, 13 Oct. 1815.

To the Magistrate in Canara.

SIR:

I have the honour to acknowledge the receipt of your letter, together with its accompaniments, and to forward you a simple detail of occurrences which form the subject of Maudapah's petition.

I am not aware that the presence of any person on my behalf is at all necessary for the ends of justice. It may, however, be satisfactory to all parties: I therefore suggest that Mr. Read be permitted to attend.

I have, &c.

(Signed) A. WILSON,
Late Magistrate.

Tellicherry, 8 August 1815.

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sic. orig. Par. 1. The petition of Maudapah is so totally false in some, and so grossly exaggerated in all the circumstances detailed, that any observation would almost appear unnecessary; the more especially as the Government were regularly apprized of the measures I pursued, and kept acquainted, from time to time, with all my proceedings on the occasion. I shall endeavour, however, to give a concise account of what occurred, to enable you to execute, with as little delay as possible, the commission with which the Right Honourable the Governor in Council has been pleased to invest you.

2. I was informed, some time in ———, that the petitioner and the head native servant in the civil department had been engaged in a series of corrupt practices. This information was at first so undefined, and so much at variance with the general good characters of these servants, that I did not consider it entitled to much belief: I however pointed out the way in which the subject should be publicly brought forward, and the next day three or four specific charges were instituted and sworn to in court. I thought it necessary to place a guard at the house of petitioner and his associate, as well to convince the inhabitants that situation in office could afford no security to delinquency, as to guard against the possibility of making away with any of the property which the petitioner and the other servant were accused of having dishonestly acquired. I was about to proceed in the investigation of the suits which had been then preferred, when I was informed that some secret arrangements were then in agitation to enable the petitioner and the other servants to leave the zillah by water. It became necessary to counteract these plans by securing their persons; I therefore removed them to a room in the court-house under a guard, at the same time assuring them that if their so strongly protested innocence should be established, ample satisfaction should be afforded for the indignity they suffered. The information I continued to receive was so corroborative of the various charges which continued to be preferred, that I thought it necessary to search the house of the petitioner and the other servant, which were said to contain a vast quantity of treasure, the fruits of their nefarious practices. I accordingly proceeded in person to the spot, when the first thing that presented itself was a number of papers, half concealed in a dunghill, together with various articles of brass and silver furniture, which had not been completely buried: I therefore ordered the compound to be dug up, and discovered several dufters containing an immense quantity of papers, and some boxes containing several thousand pagodas, all buried a considerable depth in the ground. The situation of life in which the petitioner was, rendered it impossible that he could have acquired this mass of wealth by honest means. His circumstances when first employed as a servant of Government were far from affluent: he had only been in office about twelve years, and had never received more than ten or fifteen pagodas a month; it appeared evident, therefore, as he had no other ostensible means of acquiring wealth, that there must have been some secret source from which these treasures were derived, and the discoveries which took place on searching the house, and the variety of complaints of corruption, &c. &c. preferred against him, left no doubt as to the nature of these resources.

3. The

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3. The papers and property were therefore instantly removed: the latter were made over to the Collector, for safe custody, and the former sealed up, and deposited in court. The assistant Collector was deputed to search the houses of petitioner situated on his family estate, to seize the treasure which was said to have been lately removed thither from Mangalore, and to attach all the landed property in his possession, part of which, it was reported, had been recently acquired, This was accordingly performed by the assistant Collector, and the landed estates made over to the Collector in trust. These arrangements for the security of the property having been completed, it became an imperious duty to bring to justice such unprincipled violators of public trust, and to hold out every possible encouragement to the injured to come forward with their complaints. The power which public situation confers was too firmly established to expect co-operation from the aggrieved, until all undue influence was effectually destroyed, and until the means which the petitioner and his associate had too successfully resorted to for suborning evidence had been completely cut off. The only method by which these important objects could be effected was by close and strict confinement, I therefore ordered the petitioner in irons and sent him to the jail; at the same time I announced to the inhabitants the measures which had been taken, and invited the aggrieved to make known their injuries, assuring them of speedy and substantial redress in all cases of established suffering. These circumstances were all reported to Government at the time, and in the letter communicating the general approbation of that high authority to the measures which had been adopted my particular attention was directed to the object of securing all the property of the petitioner and his associate, whether honestly or otherwise acquired, to answer the demands which might eventually be established against them.

4. The prison to which the petitioner and the other head servant were removed was that in which the convicts and the civil debtors were indiscriminately confined, and with the exception of a few days (I believe about six in which the same allowance of wholesome food distributed to all the prisoners was offered also to them, with ample means of cooking it by their own caste people) the petitioner and his associate were allowed to procure any victuals they pleased from their own houses, and to follow, as far as confinement would permit, the ceremonious usages to which they had been daily accustomed. It is true that the petitioner rejected, until greatly reduced, every kind of nourishment; but this was an act of his own, not compelled by any cruel treatment or by the privation of the usual necessaries of life; it appeared an act of sullen resentment, induced by the detection of his villanies, by the despair of escaping with impunity, and by the chagrin arising from the disappointment of his guilty hopes. The petitioner was detained in jail until the completion of the suits preferred against him, and was then sent under a guard to the provincial court to prosecute his appeals, the result of which you must be well acquainted with. Most of my decrees have been confirmed, and the guilt of the petitioner stands thus conclusively established. This is a correct account of all which has occurred. It has already been communicated to Government, and will be established by the testimony of Mr. Read and Mr. Campbell, who were both present at the time and privy to the transactions. Ternapiah, the Government Vakeel, the late Nazir, the jailor, the head Magistrate's officer and Gomasthah, Soobao Row, can depose to the occurrences which took place in jail, and generally to all other matters connected with the inquiry. The confinement in irons is the only measure liable to objection, and the strict letter of the law may not perhaps recognize the propriety of this proceeding. It was resorted to when all possibility of innocence had ceased to exist, and under the solemn conviction, in which I shall be joined by Mr. Read and Mr. Campbell, that it was the only alternative by which the intriguing attempts of the petitioner and his associate to suborn evidence could be counteracted, by which the timid could be induced to come forward with their complaints, and by which the important investigation I was then engaged in could have been brought to so speedy and successful an issue.

5. It is hardly necessary to advert to the gross falsehoods contained in the former part of the petition. The services so much boasted of by the petitioner were performed by a party of military, who accompanied me into the Mahratta

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ratta country. The petitioner was present on the occasion, and certainly made himself very useful: a circumstance which was duly brought to the notice of Government. The transaction termed a grant of five villages to the Poligar, as far as I am acquainted with it, was nothing more than the appointment of a Dessai, who resided on the boundary, to the situation of village Potail; and when I heard of this appointment I mentioned the circumstance to Mr. Read, who agreeing with me as to the impropriety of the arrangement, removed the Dessai from the situation and appointed some other person.

6. I had almost omitted to mention, that several people were apprehended and subjected to temporary restraint, for attempting to thwart, by underhand means, the measures I was pursuing, and to afford encouragement and protection to the petitioner and other head servant. Dhass Bhull, I think, was among the number, and if I mistake not, made himself particularly active in removing from the petitioner's house several bags of treasure and secreting them in his own: they were discovered concealed in the house or under the thatch of a wall, and Dhass Bhull was put under restraint, either in his own house or removed to one of the jails. The period of this confinement was very short, and the treatment of those who suffered it such as could not have occasioned the catastrophe said to have resulted, which, on inquiry, may not be found to have occurred.

The persons whom I have mentioned as privy to all the other transactions are no doubt acquainted with this, and will be able to afford more positive information than I can.

(Signed) A. WILSON,
Late Magistrate of Canara.

Tellichery, 8th August 1815.

To the Judge and Magistrate in Canara.

SIR:

I have the honour to acknowledge the receipt of your letter under date the 31st ultimo, giving cover to an extract of a petition presented to the Honourable the Governor in Council by Maudapah, lately employed in the zillah court of this province. Previously to furnishing the information required, it is necessary for me to remark that Maudapah is a man of an infamous character, and was discharged from his employment for the most corrupt practices.

In answer to the third paragraph of the petition I can state it to be entirely without foundation, and merely a malicious accusation against Narrain Row, the Soopah Peishcar, from a desire of revenge, in order to injure him, in consequence of the active part he took in detecting the corrupt practices of the petitioner Maudapah and his coadjutor Pootapah.

Respecting the fourth and fifth paragraphs they are equally false, with the exception that Maudapah may have accompanied the late Judge in his tour through Soonda, where he spent some time in order to organise the police of that part of the country, which has always been more or less molested with thieves from the Mysore or Mahratta countries, but not from the cause mentioned by Maudapah, no villages of any description having ever been given to the Poligars.

The accusation contained in the eleventh paragraph against my Assistant, together with those contained in the foregoing paragraphs, are entirely without foundation, dictated from a malicious desire of revenge for the part he took in bringing him and Pootapah forward, and in securing their property in the Ankola district, by order of the court, conveyed to Mr. Campbell by a precept of the then Judge, Mr. Wilson. The lands alluded to as having been sold were sold by desire of the court, and his brother was imprisoned in consequence of a decree of the same court.

I have, &c.

(Signed) **ALEX. READ,**
Collector.

Mangalore,
5th August 1815.

In

Madras Judicial Consultations, 13 Oct. 1815.

In consequence of the allusion made by Mr. Wilson in the concluding part of his fifth paragraph to a communication with Mr. Read the Collector, and nothing appearing on the records of the court upon the subject thereof, wrote the following letter to the Collector.

To the Collector in Canara.

SIR:

I deem it proper to forward for your observation the annexed extract of a paper received this day from the late Magistrate, Mr. Wilson, in explanation of the transaction referred to in the fifth paragraph of Maudapah's petition.

I have, &c.

(Signed) THOMAS BABER,
Magistrate.

Zillah Court, Canara, 10th August 1815.

To the Judge and Magistrate in Canara.

SIR:

I have the honour to acknowledge the receipt of your letter of yesterday's date, accompanied by extract of a report from the late Magistrate, Mr. Wilson, dated 8th instant, relative to the transaction referred to in the fifth paragraph of Maudapah's petition, and submitted for my observations thereon.

The transaction as stated by Mr. Wilson is perfectly correct. The appointment of the Kittoor Dessai to the potailship was made by my Assistant, Mr. Campbell, during his first circuit through Soonda, from motives of policy entirely, expecting thereby that from his influence in that part of the country bordering on Soopah the number of robberies and occasional murders would be greatly prevented. When the appointment, however, was made known to me, I agreed with Mr. Wilson that it was of an improper nature, and immediately wrote to Mr. Campbell, still in Soonda, to discontinue it and appoint some one else.

I have the honour, &c. &c.

(Signed) A. READ,
Collector.

Mangalore, 11th August 1815.

To T. H. Baber, Esq. Judge and Magistrate, zillah Canara.

SIR:

I have the honour to acknowledge the receipt of your letter of this date, together with a list of the sick in hospital as it stood on the 6th instant, desiring me to inform the court what prisoners in the hospital may, without prejudice to their recovery, be kept in irons. Below I subjoin a list of those whose recovery may perhaps be aided by allowing them to remain without irons.

The difference mentioned in your letter respecting the list of sick furnished by me and that taken by the officers of the court, is caused by their inserting the names of persons unsentenced, who have hitherto not been included in the sick list, in consequence of my being directed, when I joined the zillah, to send in a daily account of the sentenced prisoners only. Should it now, however, be your wish to have a register of the whole, I will in future send it in.

I have the honour, &c. &c.

(Signed) L. G. FORD,
Assistant Surgeon, zillah Canara.

Mangalore, 8th August 1815.

Amanah .... Sentenced prisoner.
Perenah .... Ditto.
Frances .... Ditto.
Krestna .... Ditto.
Neela .... Ditto.

 Dhanek

Madras Judicial Consultations, 13 Oct. 1815.

Dhanek............. Unsentenced prisoner.
Thaddaroo .... Ditto.

True copy.

(Signed) T. H. BABER,
Magistrate.

To David Hill, Esq. Secretary to Government.

SIR:

Herewith I take the liberty to submit a petition to the Right Honourable the Governor in Council, which I request may be delivered in, and an answer obtained, for

(Signed) MAUDAPAH.

Madras, 24th August 1815.

To the Right Honourable Hugh Elliot, Governor in Council, Fort St. George.

The humble Petition of Maudapah,

Sheweth:

That your humble petitioner, on the 7th ultimo, addressed a petition to your honour in Council, stating several acts of injustice and oppression done to your petitioner by the late zillah Judge at Canara, and praying that your petitioner may be redressed after an investigation may be had, and that the same having met a due consideration was referred to Mr. Baber, the present zillah Judge at Canara, who is now proceeding in the said investigation; but as the principal charges are directed against Mr. Wilson, the late Judge at Canara, it will require your petitioner's personal attendance to prove it, and the only obstacle which prevents your petitioner from proceeding to Canara for such purpose, and which he trusts may be removed, will be explained hereafter.

That by certain rules and regulations prescribed for the due administration of justice within the Company's territories in India, made in the year 1802, it is provided, in Regulation XII, Section 12, Clause 7, that all charges of corruption or extortion that may be preferred against the ministerial officers of any civil or criminal court are to be prosecuted in the civil courts; and in Clause 1 of the same section it is provided, that for such charges the courts are to require the complainant to make oath to the truth thereof, and to give security as may be required, in default of which the courts are not to receive the charge: and in Clause 8 of the same section it is provided, that when such charges of corruption and bribery shall be proved, the court is to adjudge the defendant to refund the amount or value, and to pay a fine of treble the amount to Government.

That your petitioner had stated in his petition, that he was a Sheristadar in the criminal court at Canara, which came under the description of a native ministerial officer of that court; and that when the charge of bribery for five hundred rupees was preferred against your petitioner he was tried in the criminal court, and his property plundered and confiscated, and himself cast into prison and unjustly confined for eight months, without proving or establishing the charge against him, which went in direct contravention of the said rules and regulations above specified.

That in order to detain your petitioner in confinement, it is stated that Mr. Wilson had proclaimed by tom-tom, and by several written proclamations, encouraging all persons to come forward and allege any charges against your petitioner, and promising to detain your petitioner during his life in such confinement, in consequence of which several persons who were enemies to your petitioner came and alleged false charges against your petitioner of bribery, and without any lawful investigation therein Mr. Wilson condemned your petitioner in the civil court for the amount of all such charges, with a fine of treble the amount; but your petitioner having his whole property confiscated, and remaining in such confinement, did take the benefit of the XIVth Regulation, and appealed against such decrees as pauper to the provincial court, who released your petitioner on common bail.

That

That since his release none of his property so unjustly confiscated was delivered to him: and as he found during his confinement that the circuit Judge who came there took no notice, but disregarded the cause of your petitioner, your petitioner therefore came to Madras to seek redress for his losses and injuries; but as your petitioner is not aware of the result of the decrees which went to appeal, he is apprehensive that if the same were confirmed he would be further condemned and imprisoned on his arrival at Canara.

Madras Judicial Consultations, 13 Oct. 1815.

Your petitioner, therefore, humbly prays your honour in Council will be pleased to grant a precept to Mr. Baber, not to enforce the decrees if confirmed by the provincial court, until the investigation of your petitioner's complaint shall be determined, but to take security for your petitioner's appearance, in conformity to the second Regulation of Section 7, made and provided in 1810 for such cases.

And your petitioner as in duty bound shall ever pray.

(Signed) MAUDAPAH.

Madras, 24th August 1815.

Ordered, that the petitioner, Maudapah, be informed, that the course of proceeding prescribed by the Regulations must be observed, and that the Governor in Council cannot interfere in his behalf.

Ordered, in consequence, that the following reply be dispatched to the Judge and Magistrate at Canara.

To the Judge and Magistrate in the zillah of Canara.

SIR:

I am directed to acknowledge the receipt of your letter of the 4th and 18th of August last, and also the copy of a petition received from Maudapah. The petitioner has been informed, that the course of proceeding prescribed by the Regulations must be observed, and that the Governor in Council cannot interfere in his behalf.

I am, &c. &c.

(Signed) D. HILL,
Secretary to Government.

Fort St. George, 13th October 1815.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 3d November 1815.

READ the following letter from the Judge and Magistrate at Canara.

To the Secretary to Government, Fort St. George.

SIR:

I had the honour to receive your letter, dated the 13th, this day, and in consequence of the order passed by the Right Honourable the Governor in Council on Maudapah's petition, I have suspended all further proceedings on that referred under date 17th July for my investigation; and at the same time, I deem it my duty to report, that as far as the evidence has been taken, there is not the slightest ground for any one of the charges contained in that petition against my predecessor, with the exception of the illegal confinement of Maudapah's person, and the irregular mode of attachment of his and his family's property; the latter of which cannot be sufficiently lamented, if only in consideration to the embarrassments thereby occasioned to the execution of the final judgments against both these delinquents, Maudapah and Pootapah.

Madras Judicial Consultations, 3 Nov. 1815.

I have, &c.

(Signed) T. H. BABER,
Judge and Magistrate.

Zillah Court, Canara,
25th October 1815.

The foregoing letter requires no order.

EXTRACT

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 16th August 1815.

READ the following letter from the Judge at Canara.

To the Secretary to Government, Fort St. George.

SIR:

Madras Judicial Consultations, 16 Aug. 1815.

Par. 1. In obedience to the orders of his Excellency the Governor in Council, under date the 4th January 1814, I have the honour to submit copies and English translates of two of the decrees passed by the provincial court of appeal, and of the precepts received therewith, on the cases appealed by Pootapah and Maudapah, the late head ministerial servants of this court, as also copy of a reference I made to that court in pursuance of the spirit of the concluding paragraph of the orders of Government, under date the 27th August 1813, and the answer I have received; agreeably to which the whole costs have been levied from the property under attachment, and such portion as is on account of the Company will be held in deposit until the receipt of the orders of Government.

2. These have been the only decrees received from the provincial court; but it is most probable that the result of the other appeals will be also a confirmation of my predecessor's decrees, with the exception of a few. Not that the amount sued for was not paid to the court servants, but that the plaintiffs had no right to prosecute, not having been empowered by those from whom the sums were levied, and in some instances having themselves been the robbers.

3. In case No. 1592, A. D. 1813, the sum sued for was Rupees 2,376; whereas by an account furnished Mr. Wilson by the revenue officers, the sum total extorted from the Ryots was Rupees 5,591 2 30. The plaintiff, Sheseegatty Vittoba, was not, as Mr. Wilson supposed him, a revenue servant,* but one of the most active of the instruments of the court servants, in their atrocities upon the persons and properties of the inhabitants of the Belghi talook, and who, as was to be expected, appropriated great part of his exactions to his own use. Hence the difference between the amount sued for and extorted.

4. The same observations nearly apply to case No. 1590 of 1813. The sum sued for was only Rupees 2,260; whereas, by the statements taken before Mr. Wilson, the amount actually extorted from the merchants of Mangalore was Rupees 5,336.

5. What the sum total is of all these exactions it is impossible to say. Mr. Wilson, in his letter dated 4th June 1813, says, up to that period the amount, as contained in one hundred and fifteen complaints, was Rupees 62,800; in his subsequent letter, dated the 9th August 1813, the number of complaints had increased to one hundred and fifty-eight, all of which, with one or two exceptions, he says, were evidently well founded: and the opportunities I have had of knowing the corruptions of the court and police servants enable me to assure the Right Honourable the Governor in Council, that the sum total of these complaints falls far short of what has actually been extorted from the people.

6. Many have, and will continue to forego their claims, rather than be at the expense and inconvenience of a public prosecution; and in one case that has been decided in favour of the plaintiffs, inhabitants of Soonda, they have declined defending the appeal, rather than proceed to Tellicherry. The provincial court have, in consequence, ordered that the proceedings in the appeal close with the appellant's petition of appeal, and that the merits of the appeal be brought to issue without further process.

7. Under any other province under British rule, the inhabitants ought to suffer, if they will feed corruption; but when I reflect upon the long sufferings of the people of Canara, and the circumstances which gave rise to them, I cannot but think that great allowances are to be made for them, and that it is a subject

* Vide concluding part of paragraph 33, Letter dated 1st December 1813. There was only one plaintiff.

subject worthy of the consideration of the Right Honourable the Governor in Council, now that the issue of the appeals in two of the zillah court decrees leaves no doubt of the existence of long and extensive abuses, what amends can be made to those of their subjects, whose poverty and inability prevent them from resorting to legal means for indemnification, for injuries and losses sustained at the hands of those very men who were bound to protect them, and what additional provisions may be necessary to guard against the possibility of their occurrence in future.

Madras Judicial Consultations, 16 Aug. 1815.

8. Enclosed I send copy of an account current of the sequestered property of the two late ministerial servants, up to the end of last month, as also copies of a communication to and from the provincial court, in explanation of the reasons which compelled me to discontinue the allowance my predecessor made out of this property to Pootapah and Maudapah, for the purchase of stamp paper and for the subsistence of their families.

I have, &c.

(Signed) T. H. BABER,
Judge.

Zillah Court, Canara,
29th July 1815.

Ordered, That the foregoing letter do lie on the table.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 17th July 1815.

READ the following letter from the Register to the western provincial court:

To the Secretary to Government in the Judical Department, Fort St. George.

SIR:

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copy of a decree * passed by this court, in an appeal (No. 35 of 1813) from, and in affirmation of one issued by the zillah court of Canara, in a cause wherein the appellant, Sheristadar of the said court, was prosecuted under the provisions of the above-quoted Regulation.

Madras Judicial Consultations, 17 July 1815.

I have, &c.

(Signed) F. HOLLOND,
Register.

Register's Office, Tellicherry,
3d July 1815.

Ordered, That the foregoing letter be recorded.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 27th July 1815.

READ the following letter:

To the Secretary to Government, Judicial Department.

SIR:

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copy of a decree passed by this court, in an appeal (No. 39 of 1813) from, and in affirmation of one issued by the zillah court of Canara, in a cause wherein the appellant, Sherista-

Madras Judicial Consultations, 27 July 1815.

 dar.

* The decrees are not copied in the collection, but can soon be referred to.

Madras Judicial Consultations, 27 July 1815.

dar of the said court, was prosecuted, under the provisions of the above-quoted Regulation.

I have, &c.

(Signed) F. HOLLOND, Register.

Register's Office, Tellicherry,
10th July 1815.

Ordered, That the foregoing be recorded.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 25th August 1815.

READ the following letter from the Register to the provincial court of the western division:

To the Secretary to Government in the Judicial Department, Fort St. George.

SIR:

Madras Judicial Consultations, 25 Aug. 1815.

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII. A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copies of three decrees passed by this court, in appeals (Nos. 37, 38, and 43 of 1813) from, and in affirmation of those issued by the zillah court of Canara, in causes wherein the appellant, Sheristadar of the said court, was prosecuted under the provisions of the above-quoted Regulation.

I have, &c.

(Signed) F. HOLLOND, Register.

Register's Office, Tellicherry,
9th August 1815.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,
The 11th September 1815.

READ the following letter from the Register to the provincial court in the western division:

To the Secretary to Government in the Judicial Department, Fort St. George.

SIR:

Madras Judicial Consultations, 11 Sept. 1815.

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copies of two decrees passed by this court, in appeals (No. 40 and 41 of 1813) from, and in affirmation of those issued by the zillah court of Canara, in causes wherein the appellant, Sheristadar of the said court, was prosecuted under the provisions of the above-quoted Regulation.

I have, &c.

(Signed) F. HOLLOND, Register.

Register's Office, Tellicherry,
30th August 1815.

Ordered, that the foregoing letter be recorded.

READ the following letter from the Judge in the zillah of Canara:

To the Secretary to Government, Fort St. George.

SIR:

I have the honour to report, that since my letter, dated the 29th July, I have received four of the provincial court's decrees, in confirmation of the decrees of my predecessor, one of which, viz. the original cause, No. 1570, Rachi

Rachi versus Pootapah, for the recovery of Rupees 1,826 2 80, the amount of a bribe paid to Pootapah; for his influence in restoring to her some property which had been sent to court by the Thannadar of Bunwassi, under the pretence that it belonged* to a person who had died intestate, I now forward, and beg I may be informed whether it is the wish of the Right Honourable the Governor in Council to see any more of these decrees. Three out of these four decrees have been carried into execution, and the fine to the Company, as well as the institution and other fees, will be held in deposit in the revenue treasury, until the receipt of the final orders of Government.

Madras Judicial Consultations, 11 Sept. 1815.

It may be proper to notice, that there is a suit now on the civil file of this court not inquired into, preferred by one private against the aforesaid Rachi, for the recovery of this identical property, which the plaintiff says had been forcibly taken away from her by the Thannadar, and a division made thereof between Rachi and the court servants Pootapah and Maudapah.

Sic orig.

I have the honour, &c.

(Signed) T. H. BABER, Judge.

Zillah Court, Canara,
18th August 1815.

Ordered, that the following reply be dispatched:

To the Judge in the zillah of Canara.

SIR:

I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter of the 18th ultimo, and to inform you that the further transmission of decrees of the provincial court by you is considered unnecessary, as they will be communicated to Government by that court.

I am, &c.

(Signed) G. STRACHEY, Chief Secretary to Government.

Fort St. George,
11th September 1815.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,

The 29th September 1815.

READ the following letters from the Register to the western provincial court:

To the Secretary to Government, Judicial Department, Fort St. George.

SIR:

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copies of two decrees passed by this court, in appeals (No. 44 and 46 of 1813) from, and in affirmation of those issued by the zillah court of Canara; in the former of which the Sheristadar, and in the latter the Foujdarry record-keeper of the said court were prosecuted, under the provisions of the above-quoted Regulation.

Madras Judicial Consultations, 29 Sept. 1815.

I have, &c.

(Signed) F. HOLLOND, Register.

Register's Office, Tellicherry,
13th September 1815.

To the Secretary to Government in the Judicial Department, Fort St. George.

SIR:

I am directed to transmit, conformably with the provisions of Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable Governor in Council, copy of a decree passed by this court, in an appeal

Madras Judicial Consultations, 29 Sept. 1815.

appeal (No. 36 of 1813) from, and in affirmation of one issued by the zillah court of Canara, in a cause wherein the appellant, Sheristadar of the said court, was prosecuted, under the provisions of the above-quoted Regulation.

I have, &c.

(Signed) F. HOLLOND,
Register.

Register's Office, Tellicherry,
13th September 1815.

To the Secretary to Government in the Judicial Department, Fort St. George.

Sir :

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copy of a decree passed by this court, in an appeal (No. 52 of 1813) from, and in affirmation of one issued by the zillah court of Canara, in a cause wherein the appellant, Sheristadar of the said court, was prosecuted, under the provisions of the above-quoted Regulation.

I have, &c.

(Signed) F. HOLLOND,
Register.

Register's Office, Tellicherry,
18th September 1815.

Ordered, that the foregoing letters be recorded.

EXTRACT FORT ST. GEORGE JUDICIAL CONSULTATIONS,

The 17th November 1815.

Read the following letter :

To the Secretary to Government in the Judicial Department, Fort St. George

Sir :

Madras Judicial Consultations, 17 Nov. 1815.

I am directed to transmit, conformably with the provisions of Clause 8, Section 12, Regulation XII, A. D. 1802, for the purpose of being laid before the Honourable the Governor in Council, copy of a decree passed by this court, in an appeal (No. 45 of 1813) from, and in affirmation of one issued by the zillah court of Canara, in a cause wherein the appellant, late Foujdarry record-keeper of the said court, was prosecuted, under the provisions of the above-quoted Regulation.

I have, &c.

(Signed) F. HOLLOND,
Register.

Register's Office, Tellicherry,
6th November 1815.

Ordered, that the foregoing letter be recorded.

JUDICIAL LETTER *from the* COURT *of* DIRECTORS *to the* MADRAS GOVERNMENT,

Dated 25th March 1818.

To our Governor in Council, at Fort St. George.

Judicial Letter to Madras, 25 March 1818.

Par. 1. Our last letter to you in this department was dated the 4th instant.

2. We have read with unusual concern the proceedings to which you have referred us, in Paragraphs 133 to 140 of your judicial letter, dated the 1st March 1815, and in Paragraphs 34 to 56 of your letter dated 5th January 1816, relative to the corrupt practices of the native judicial servants in Canara.

3. These transactions appear to have been first brought to the notice of your Government by Mr. Wilson the Judge and Magistrate, in a letter of the 1st

1st of May 1813, from which and from repeated communications subsequently received from that gentleman and his successor in office, it appears that there existed among the native servants, not only of the court but throughout the judicial department, an organized system of extensive and flagrant corruption, extortion, and oppression.

Judicial Letter to Madras, 25 March 1818.

4. In these nefarious transactions the two head ministerial servants of the court were principal instigators and active leaders.

5. Of the Vakeels and Gomashtahs employed "immediately in court," Mr. Wilson observed that "not one of them, from the highest to the lowest, "could have been ignorant of the iniquities going on," or could possibly have been "prevailed upon to observe so profound a silence" as they had maintained, "without some powerful inducement to ensure their connivance."

6. There was another description of native servants, from whom the ministerial officers attached to the court were represented by Mr. Wilson to have derived the most active assistance and support in the practice of their malversations, namely, the Commissioners for the trial of civil suits. This class of persons is stated by Mr. Wilson to have oppressed the lower orders of the people by the exaction of compulsory service of every kind without remuneration, and by beating and confining those who made any remonstrances or opposition to their demands, whilst they forcibly possessed themselves of the estates of the higher orders, and extorted from them the necessaries of life and other commodities at less than the market price.

7. The police officers and court Peons are likewise represented to have contributed, in a material degree, to the support of this iniquitous system by "their good-will and connivance, these being necessary in almost every act, "and insured by occasional loans of money, and the exercise of other petty "good offices, with which the head officers of the court found it their interest "to reward them."

8. In describing the lamentable state of things in Canara, Mr. Wilson says, that "attacks against the dearest rights were made by one party, and an "abject surrender of every privilege was yielded by the other:" that "extortion was not confined in its practice against those only who had business "before the Court, but was extended, under every form and aggravation "which rapacious avarice could devise, against all whose opulence attracted "notice, all whose possessions rendered them fit objects for such infamous "designs."

9. The truth of Mr. Wilson's representations has been since fully confirmed by the correspondence of Mr. Baber, his succeesor, as well as by the proceedings of the courts of justice.

10. Mr. Baber, in his letter dated the 29th July 1815, thus expressed himself: "What the sum total is of all the extortions it is impossible to say. "Mr. Wilson, in his letter of the 4th June 1813, says, up to that period "the amount, as contained in one hundred and fifteen complaints, was "Rupees 62,800. In his subsequent letter, dated the 19th August 1813, the "number of complaints had increased to one hundred and fifty-eight, all of "which, with one or two exceptions, he says, were evidently well founded; "*and the opportunities I have had of knowing the corruptions of the court and "police servants enable me to assure the Right Honourable the Governor in "Council, that the sum total of these complaints falls far short of what was "actually extorted from the people.*" From Mr. Baber's letter of the date abovementioned, we also find that two decrees had then been passed by the superior court on the appeals preferred by the head ministerial officers of the zillah court, affirming the judgments of the court below, and that it was his opinion that "the result of the other appeals would also be a confirmation of "his predecessor's decrees."

11. Your records shew that seven decrees of the court of appeal had been subsequently passed, in confirmation of the decisions of the zillah court.

12. We look forward with anxious solicitude to the receipt of information as to the further extent to which redress may have been obtained by the aggrieved, and punishment inflicted upon the guilty.

 13. It

Judicial Letter to Madras, 25 March 1818.

13. It is indeed "mortifying," as you have observed in one of your communications to Mr. Wilson, "that all the endeavours in which Government "has persevered during a long course of years, for the purpose of protecting "the people against violence and oppression, of securing to them the "enjoyment of their rights and property, and of instilling into their minds just "notions of the principles by which the British dominion over them was "intended to be regulated, should throughout a large and populous province "have been entirely frustrated by the schemes of two worthless individuals, "intent only upon the acquisition of dishonest gains."

14. Concurring in these sentiments, we have been naturally led to consider the conduct of Mr. Wilson, the proceedings of your Government, and the provisions of your Regulations, in so far as they are severally connected with the atrocious and complicated scheme of corruption and extortion among the native judicial servants in the province of Canara.

15. It is unquestionably matter of deep regret, that a system of such enormous abuse should have been matured and carried on so long undetected, under the immediate eye of the zillah Judge; but we nevertheless regard the explanations furnished by Mr. Wilson, as to the degree of confidence reposed by him in his servants, the controul which he exercised over them in the performance of their duties, and the facilities which he afforded to the natives who might have cause of complaint to make known their grievances, as sufficient to protect him from the imputation of official remissness.

16. We also think it due to Mr. Wilson's character, to express our unqualified conviction of his honour and integrity; and we have no hesitation in approving of the declaration to that effect which you caused to be conveyed to him, upon the occasion of the petitions which were presented to you by two of the persons most deeply implicated in the criminal proceedings which he had exposed. It would not be just to omit in this place a distinct expression of our approbation of the conduct of Mr. Gahagan, the Register of the court, who appears to have had so signal a share in bringing to light the misconduct which had so long escaped detection.

17. The correspondence of Mr. Wilson, subsequently to the detection of the abuses, exhibits an honourable indignation against wrong, and an anxiety for the ends of justice, which do him infinite credit, even though it may evince no very accurate knowledge of established forms, nor a clear and distinct perception of the road to be pursued towards his object.

18. In almost all imaginable cases, the propriety and expediency of adhering strictly to the established forms of justice, even at the expense (if it must be so) of a prompt and effectual attainment of the substance of it, are too obvious to be disputed.

19. The measures which Mr. Wilson ought to have taken, on discovering the gross misconduct of his servants, were clearly indicated by Regulation XII of 1802, I of 1809, and V of 1811; and how defective soever the Regulations may be in cases even of ordinary occurrence, or how inapplicable soever they may have been to the extraordinary emergency in which he was called upon to act, it was his business to pursue the course therein prescribed. In taking upon himself to depart from the rules which had been laid down for the guidance of the conduct of the Magistrates, Mr. Wilson certainly exceeded his powers; and in calling upon you to *dispense with* the Regulations, he undoubtedly asked that which you could not do.

20. If, indeed, the intent and meaning of Mr. Wilson's request were, that you should amend the existing Regulations, by enacting *new ones* more adequate to the case which he had brought before you, he proposed that which you *could* have done, and which the enormity of the case would perhaps have justified; but we do not blame you for having declined to take upon yourselves that extraordinary responsibility.

21. But giving you full credit for cautious and equitable reserve, in not making an *ex post facto* law for a particular emergency, we cannot forbear expressing our surprise that nothing has been done, in the course of the three years which have elapsed since these transactions took place, to remedy the notorious

notorious inadequacy of the law as it stood, for the purpose of preventing similar emergencies in future, and of checking the progress of evils which, in your own view, must, wherever they prevail, completely frustrate the beneficial effects of the judicial system.

22. It does not even appear from your latest records with which we have been furnished, that you have made that reference to the Judges and Magistrates of the other zillahs, which in your Secretary's letter to the Magistrate of Canara, of the 21st May 1813, you intimated your intention of making, as to the existence of similar abuses among *their* native officers and servants.

23. Your supineness in not taking any steps to amend, or even to bring into discussion, the provisions of the existing Regulations for preventing and punishing corruption and extortion among your native judicial servants, after the inefficacy of those Regulations had been so clearly shewn, and after the strong appeals which had been addressed to you upon the subject, both by Mr. Wilson and Mr. Baber, is the more remarkable, because we find from the proceedings of your Board of Revenue, that in consequence of frequent embezzlement of public money, and of extensive combinations among your native revenue servants, for the purposes of fraud, bribery, and corruption, the Board, so far back as the 22d October 1813, had transmitted to the different Collectors the outline of a Regulation for the better prevention and punishment of those offences among the native functionaries under their immediate controul, with instructions to the Collectors, severally, to submit their opinions upon its provisions, and to suggest such improvements or alterations as they might deem expedient. Why a similar course was not adopted by the Sudder Adawlut, and why (seeing that *that* court neglected so material a part of its duty) you did not call upon it to repair the omission, we are wholly at a loss to understand.

24. By Regulation XII of 1802, "corruption and extortion" in the native servants of a court of justice are to be thus dealt with. The complainant is to be bound over to prosecute at his own expense, with the certainty that the utmost redress that he *can* obtain is the restitution of the sum corruptly extorted from him, less by the sum expended in the prosecution; and with the risk, first, if he fails in his proof, of having costs to pay, and secondly, if he succeeds, of having an appeal to litigate. If he succeeds in this civil suit, it is true the defendant is punished, in effect *criminally*, by a fine *to the Government* of treble the amount of damages given to the plaintiff, who is thus, incidentally and unavowedly, made to bear all the burthen of a public *criminal prosecution.* Dismission from office may, it is also true, be a contingent consequence of the defendant's losing his cause; but the infliction of this punishment depends upon the Government, and even the successful plaintiff *may* therefore have still to tremble before the convicted extortioner in office. It is not a sufficient answer to this to say that Government will assuredly do its duty. The Government has many duties to discharge, which press more urgently upon its attention than a suit in a zillah court; and the very essence of legal decision is, that its effects should be certain, and altogether independent of extra-judicial and arbitrary discretion.

25. Can it be supposed, that any native subject, with his natural timidity, and with his habitual reverence for all that is in authority, would not rather put up with any pecuniary injury not absolutely past bearing, than seek to vindicate his right at such cost, and at such hazard, and with such absolute hopelessness of indemnification?

26. What might have been early predicated as the probable result of the law when called into operation, has been practically exemplified by the course of the transactions in Canara. On the first discovery of the abuse, Mr. Wilson, more eager it must be admitted to attain the substance of justice than careful in attending to its forms, caused proclamations to be made, inviting and exhorting the inhabitants to come forward and reveal their grievances, that they might be redressed and the authors of them brought to punishment, under an assurance, that instead of each of the injured parties instituting a civil suit against his oppressor for damages, either for bribes received or money extorted, the delinquent should be criminally prosecuted by the Government Vakeel.

27. Then

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27. Then, and not till then, were the natives emboldened to step forth with their accusations. Many who appeared with charges against the servants were not those who had actually paid the bribes, but persons acquainted with the transactions. When Mr. Wilson, in consequence of your instructions, abandoned the course which he had first taken, and proceeded (according to the Regulation) to try the charges which had been preferred, as civil actions, we find that the change of process operated as a death blow to the inquiry; and this, too, under circumstances which induced Mr. Wilson, and afterwards Mr. Baber, to express their decided belief, that the corruption and extortions of the native servants extended much further than even their own alarming statements had described. Mr. Wilson says, that "complaints against some were "preferred, but given up when transferred to the civil court, in consequence "of the obstacles to substantiating the claims, and the heavy risks to be incurred "in case of failure." Mr. Baber declares, "that many have, and will continue "to forego their claims, rather than be at the expense and inconvenience of a "public prosecution."

28. Of the parties who had originally filed informations against the native servants, those who had not themselves paid the bribes, or from whom the extortions had not been levied, could not of course institute civil actions for damages, not having sustained any immediate injury. Those who had been personally injured were deterred from standing forth as plaintiffs in a civil suit in the zillah court, by the inconvenience of leaving their homes, their families, and their concerns, by the expenses of the journey and of legal proceedings, and by the not unreasonable apprehension that they might lose their causes through the influence and manœuvres of that powerful combination which was opposed to their success. It is stated even that in the latter case they would, in their turn, have been exposed to an action in the same court, on the part of the delinquents, for damages on account of a suit pronounced to be frivolous and vexatious.

29. There was another reason which is represented to have had, and must have had, a very powerful influence in deterring the aggrieved from seeking redress in the zillah court, in the mode prescribed by the Regulation, namely, the avowed determination of their oppressors to appeal against the decisions which the zillah court might pronounce against them to the provincial court, and even to the Sudder Dewanny at the presidency. This threat was actually carried into execution, and we find, from Mr. Baber's letter of the 29th July 1815, that in one of the cases which the defendant carried by appeal to the provincial court, the plaintiff in the original suit had declined to defend the appeal "rather than proceed to Tellicherry," so that the provincial court was under the necessity of ordering the proceedings in appeal to be closed, after hearing only the petition of the appellant.

30. The provisions of Regulation XII. of 1802, appear to have been borrowed from Regulation XIII of 1793 of the Bengal Code; and the objects of both Regulations probably were, first, to protect the native servants of the law courts from unfounded, malignant, and vexatious charges, and secondly, to induce those who might voluntarily pay money to the court servants from corrupt motives and for corrupt purposes, or from whom money might be extorted by the court servants, by whatever means and under whatever pretence, to take legal steps to recover the amount of the bribe or exaction, in order that the guilty servants might be exposed and brought to condign punishment. As the evidence of the plaintiff is not admissible in a civil action, it may have been supposed that the process by civil action would operate as a check upon false accusations; and as it seems to have been intended that the party aggrieved in cases of extortion, and that one of the guilty parties in cases of corruption, should have an interest in informing and proceeding, whether against his oppressor or accomplice, the framers of the Regulation doubtless felt that a process by civil action was that which best corresponded with their view of obtaining pecuniary compensation, which could not be obtained by a criminal prosecution.

31. But whatever may have been the views of its framers, it cannot, we apprehend, be disputed, that the Regulation involved a very dangerous compromise of principles, for the sake of objects which it has utterly failed in

attaining.

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attaining, and that the institution of a civil process, as the only mode of prosecuting a great public delinquency, is obviously inadequate to its object.

32. The important distinction between corruption and extortion, and the opposite characters of an accomplice and a victim, are entirely overlooked in the provisions of this Regulation. Its framers do not appear to have considered that the giver of a bribe, in many cases, is as criminal as the receiver, and may be more so, and that a combination between two persons to injure a third ought to be treated as a fraudulent or malicious conspiracy; whereas, in cases of extortion, there is the most aggravated criminality on one side, and mere helplessness and unmerited suffering on the other. The Regulation did far too much for the *corrupter*, by not only permitting him to escape unpunished, but by giving him a chance of recovering his bribe: it did too little against the *corrupted*, by excluding evidence by which alone his guilt could be proved. It placed the *victim of extortion* upon the same footing as the inciter of corruption, while against the *extortioner* its penalties were most inadequate, and its operation powerless.

33. We direct that, on the receipt of this dispatch, practices of corruption, embezzlement, and extortion, on the part of your native judicial and revenue servants *and others*, be declared *criminal* offences, prosecutable by the Government itself, whether such acts immediately affect public or private interests. We do not mean that parties committing such acts should be invariably proceeded against in this mode, but that you should possess our authority for that purpose, and that the Regulation should emphatically declare that such a process will be resorted to whenever it may be deemed necessary.

34. In the course of the correspondence which passed between you and the judicial functionaries in Canara, both Mr. Wilson and Mr. Baber applied to you in the most urgent terms for leave *summarily* to dismiss the native servants of the court. These applications you could not comply with, consistently with the Regulations, however desirable it might have been to dispense with the forms prescribed in such cases.

35. In our revenue dispatch of the 3d September 1817, paragraph 110, we signified to you our opinion, that it would be expedient to revert to the arrangements prescribed by Regulations XII. of 1802, and II. of 1803, respecting the appointment and removal of the native servants employed under the Judges and Collectors. We have again taken this subject under our particular consideration, and we are now so fully satisfied of the necessity of that measure, that we feel no hesitation in instructing you to carry it into effect.

36. A power in the Judges and Collectors of appointing and dismissing, as well as of suspending the natives employed under their authority, is, we are persuaded, essentially requisite to the due and efficient administration of the affairs of their respective departments.

37. The restrictions which we have directed to be removed were imposed upon the Judges and Collectors under your Presidency, in conformity with the practice that had been established under the Bengal Code, and like many other rules of that code they are now felt by the Governor General in Council to have been founded on mistaken principles. The injurious effects of those restrictions have been matter of frequent and strong representation among the ablest and most intelligent of our judicial and revenue officers under that Government, and it is our intention, conformably with the sentiments which have of late been recorded on that subject, to give directions for their abrogation at that presidency.

38. We find, indeed, from a Judicial dispatch (2d August 1816) which has recently been received from Bengal, that they have already been done away, as far as respects the magistrates.

39. Bengal Regulation IV. of 1805, which corresponds with Regulation I. of 1809 of your Government, was framed in consequence of a representation from Mr. Roberts, one of the Judges of Circuit, stating that the zillah Judge of Sylhet had, immediately upon his appointment, discharged the principal officers

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officers of the court, notwithstanding that they had always acted with propriety; and that to a question which had been put to him by Mr. Roberts, "whether "the measure had been adopted on a general principle that every person has "a right to appoint his own officers, or from any complaints instituted against "them, or from general bad character," the zillah Judge replied, "that he "had removed some of the officers alluded to chiefly on a general principle, "that he was empowered to remove and appoint the several officers of the "court (excepting such as were appointed by Government) when it appeared "to him to be proper." Such an arbitrary exercise of power was not to be for a moment tolerated: but there is a wide difference between regulating the exercise of power, and taking it away altogether. To guard, however, against abuses similar to that which we have now referred to, we desire that, in restoring to Judges and Collectors the power of appointing and dismissing their native servants, you will declare, that they shall be held responsible for the manner in which they shall exercise it: that no native servant is to be dismissed excepting for misconduct or incapacity: that when dismissals and new appointments take place the ground of the proceedings shall be recorded and reported; and that Government shall reserve to itself the prerogative of reversing any proceeding of this sort, of which it may disapprove.

40. By your letter, dated 26th of September 1816 (paragraphs 57 and 58), we are informed of Mr. Wilson's application, that a suit instituted against him in the Supreme Court by the late Sheristadar of the zillah court of Canara, on account of illegality in his judicial proceedings, should be defended at the public expense: and in the forty-eighth paragraph of your subsequent letter of the 17th February 1817, you acquaint us, that the Attorney for the plaintiff had applied for the assistance of the Advocate General in the conduct of the same cause. We approve of the manner in which you have disposed of both applications; but we think ourselves fully justified, under the circumstances of the case, in directing that Mr. Wilson be borne harmless as to all the consequences of the suit.

We are your loving friends,

(Signed) J. BEBB
J. PATTISON,
&c. &c.

JUDICIAL LETTER *to* MADRAS,
Dated 12*th May* 1819.

Our Governor in Council at Fort St. George.

Judicial Letter to Madras, 12 May 1819.

Par. 1. Our last letter to you in this department was dated the 7th ultimo.

2. We have attentively considered the whole of your proceedings towards carrying into effect the orders which we had issued for the reform of your system of judicature and police.

3. We are not surprised that in the execution of these orders you found yourselves engaged in long discussions involving many matters of detail. The minutes and reports of the several authorities contain much valuable information, but as nothing could be more unsatisfactory than a continuance of that controversial character which those discussions assumed, as it is highly desirable that the undivided energy of Government should be employed in giving full efficacy to the measures upon which you finally determined, we shall abstain from all examination of the merits of the controversy, and from all detailed remarks on the provisions of the Regulations themselves. We shall content ourselves with expressing our general satisfaction with them, and with directing that they be carried *strictly* and *faithfully* into execution.

4. There is no object which we have more at heart than the giving a very full and fair trial to this new system, and we look to those who exercise the powers of government, and to our servants acting under their authority in the Revenue

Revenue and Judicial departments, for the most zealous exertions in carrying our instructions into effect. But our object would be entirely defeated unless the Regulations were administered in the spirit in which our instructions were conveyed; we therefore desire that you will be most cautious in your selection of persons to fill the office of Collector, as upon the zeal and intelligence of those officers much of the efficacy of the new Regulations will depend.

5. It is impossible for us to conclude this dispatch without acknowledging, in terms of the warmest commendation, the zeal, ability, and judgment displayed by the Commissioners in the execution of the arduous duty entrusted to them. We are aware that the most important and laborious part of that duty fell on Colonel Munro, the First Commissioner, in whose commendation it would be superfluous for us to speak, were it not for the purpose of assuring you, for your information, and for that of the civil service in general, that we consider the services which he has rendered to the Company, and to the natives, as Chief of the Commission, to be as deserving of our hearty acknowledgments as any act of his long and honourable public life.

We are,

(Signed) C. MAJORIBANKS,
G. A. ROBINSON,
&c. &c.

London, 12th May 1819.

ERRATA.

Page 105, line 39, for *efficiency*, read *inefficiency*.

Page 157, lines 6 and 7, for *Bengal, Bahadur*, read *Bengal, Behar and Orissa*.